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SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

RIN 3245–AG79

Debt Refinancing in 504 Loan Program

AGENCY: U.S. Small Business Administration.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule implements Section 521 of Division E the Consolidated Appropriations Act, 2016, which authorizes projects approved for financing under Title V of the Small Business Investment Act to include the refinancing of qualified debt.

DATES: *Effective Date:* This rule is effective June 24, 2016.

Comment Date: Comments must be received on or before July 25, 2016.

ADDRESSES: You may submit comments, identified by RIN 3245–AG79, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Linda Reilly. Chief, 504 Branch, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416.

Hand Delivery/Courier: Linda Reilly, Chief, 504 Branch, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416.

SBA will post all comments on *http://www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *http://www.regulations.gov,* please submit the information to Linda Reilly, Chief, 504 Branch, Office of Financial Assistance, 409 Third Street SW., Washington, DC 20416, or send an email to *504refi@sba.gov.* Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: Linda Reilly at *linda.reilly@sba.gov* or 202–205–9949.

SUPPLEMENTARY INFORMATION:

I. Background Information

The 504 Loan Program is an SBA financing program authorized under Title V of the Small Business Investment Act of 1958, 15 U.S.C. 695 *et seq.* The core mission of the 504 Loan Program is to provide long-term financing to small businesses for the purchase or improvement of land, buildings, and major equipment, in an effort to facilitate the creation or retention of jobs and local economic development. Under the 504 Loan Program, loans are made to small business applicants by Certified Development Companies ("CDCs"), which are certified and regulated by SBA to promote economic development within their community. In general, a project in the 504 Loan Program (a "504 Project") includes: A loan obtained from a private sector lender with a senior lien covering at least 50 percent of the project cost; a loan obtained from a CDC (a "504 Loan") with a junior lien covering up to 40 percent of the total cost (backed by a 100 percent SBA-guaranteed debenture); and a contribution from the Borrower of at least 10 percent equity.

The Small Business Jobs Act of 2010 (Jobs Act), Public Law 111–240, 124 Stat. 2504, enacted on September 27, 2010, temporarily expanded the ability of a small business to use the 504 Loan Program to refinance certain qualifying debt. Prior to the Jobs Act, a 504 Project could include a refinancing component only if the project involved an expansion of the small business and the existing indebtedness did not exceed 50% of the project cost of the expansion. *See* 13 CFR 120.882(e). The temporary Jobs Act program authorized the use of the 504 Loan Program for the refinancing of debt where there is no expansion of the small business concern (the "Debt Refinancing Program"). The regulations governing this program are found at 13 CFR 120.882(g) (referred to herein as "Current Rules"). SBA's authority to guarantee loans under the Debt Refinancing Program expired on September 27, 2012.

Section 521 of Division E of the Consolidated Appropriations Act, 2016 (the Act), Public Law 114–113, enacted on December 22, 2015, reauthorizes the Debt Refinancing Program with three modifications:

(1) The Act provides that the Debt Refinancing Program shall be in effect in any fiscal year during which the cost to the Federal Government of making guarantees under the Debt Refinancing Program and under the 504 Loan Program is zero;

(2) the Act requires that a CDC limit its financings under the 504 Loan Program so that, during any fiscal year, new financings under the Debt Refinancing Program do not exceed 50% of the dollars the CDC loaned under the 504 Loan Program during the previous fiscal year. The Act provides that this limitation may be waived upon application by a CDC and after determining that the refinance loan is needed for good cause; and

(3) the Act eliminates the alternate job retention goal authorized by the Jobs Act for the Debt Refinancing Program.

As described in the section-by-section analysis below, this interim final rule modifies the Current Rules to conform the Debt Refinancing Program to the requirements of the Act. For an in-depth discussion of the Current Rules, please see the interim final rule and the final rule that were issued to implement the Debt Refinancing Program at 76 FR 9213 (February 17, 2011) and 76 FR 63151 (October 12, 2011). With this interim final rule, SBA invites comments from interested parties on all aspects of the Debt Refinancing Program.

The "zero cost" requirement described in (1) above is satisfied for Fiscal Year 2016. As announced in SBA Information Notice 5000–1352, effective September 28, 2015, "7(a) and 504 Fees Effective October 1, 2015," the 504 Loan Program is operating at zero subsidy during Fiscal Year 2016, with a zero upfront fee and an annual guarantee fee of 91.4 basis points on the outstanding loan balance. To operate the Debt Refinancing Program at zero cost to the Federal Government during Fiscal Year 2016, SBA has determined that the Borrower must pay a supplemental annual guarantee fee of 4.4 basis points on the outstanding loan balance to cover the additional cost attributable to the refinancing, for a total annual guarantee fee of 95.8 basis points. The supplemental fee for the Debt Refinancing Program will be assessed and collected in the same manner as the current annual guarantee fee under 13 CFR 120.971(d)(2).

Before the beginning of each new fiscal year, SBA will issue a similar notice indicating whether the Debt Refinancing Program will be in effect during the new fiscal year, in addition to any changes in the fees for 504 Loans.

With the "zero cost" requirement satisfied for Fiscal Year 2016, SBA will begin to accept applications for assistance under the Debt Refinancing Program upon the effective date of this rulemaking, June 24, 2016.

II. Section-by-Section Analysis

Except as set forth below, all other sections of the Current Rules are unchanged.

Section 120.882(g) Introductory Text. This section currently includes the application deadline for the Debt Refinancing Program. Since that date is no longer relevant, SBA is revising the introductory text in this section to remove the following phrase that is no longer applicable: "For applications received on or after February 17, 2011 and approved by SBA no later than September 27, 2012". Also, with the permanent reauthorization of the Debt Refinancing Program by the Act, a specific application period is unnecessary.

Section 120.882(g)(3). In order to manage the limited resources that were available for the Debt Refinancing Program between 2010 and 2012, this section imposed a maturity date requirement on the debt to be refinanced that is no longer necessary. Accordingly, SBA is revising this section by removing this maturity date requirement. In its place, SBA is inserting the Act's requirement that, for the Debt Refinancing Program to be in effect during any fiscal year, the cost to the Federal government of making guarantees under the Debt Refinancing Program and under the 504 Loan Program must be zero subsidy.

Section 120.882(g)(10). The Jobs Act authorized an alternate job retention goal for the Debt Refinancing Program for Borrowers that did not meet the job creation and retention goals under sections 501(d) and (e) of the Small Business Investment Act of 1958. The Act eliminates this alternate job retention goal and, accordingly, SBA is removing the alternate job retention goal provision from the regulations. With the elimination of the alternate job retention standard, all applicants for a loan under the Debt Refinancing Program will now be required to meet the job creation and retention goals under §§ 501(d) and (e). Based on these goals, a 504 Project, including a project financed under the Debt Refinancing Program, must achieve one of the economic development objectives set forth in 13 CFR 120.861 or 120.862.

The revisions to § 120.882(g)(10) will reflect the Act's requirement that a CDC limit its financings under the Debt Refinancing Program so that, during any fiscal year (October 1 to September 30), new financings under the Debt Refinancing Program do not exceed 50% of the dollars loaned by the CDC under the 504 Loan Program during the previous fiscal year. In making this calculation, the dollars will be deemed loaned by the CDC on the date that the 504 loan application is approved, which is when SBA obligates the funds for the 504 Project. The dollars loaned will be calculated as of September 30 of each fiscal year, which will reflect any increases or decreases to the approved 504 loan amount that occurred within that fiscal year. Because the Act provides that the 50% limitation applies to the dollars loaned under the 504 Loan Program during the previous fiscal year, all financings made by the CDC during the previous fiscal year will be included in determining this number, including those financings made under the Debt Refinancing Program.

As authorized by the Act, § 120.882(g)(10) will provide that the 50% limitation may be waived upon application by a CDC and a determination by SBA that the refinance loan is needed for good cause. SBA will provide guidance regarding the good cause determination in its Standard Operating Procedures or other guidance documents.

Section 120.882(g)(13). This section prohibits the Third Party Loan from being sold on the secondary market as a part of a pool guaranteed under subpart J of part 120 when the debt being refinanced is same institution debt. Subpart J of part 120, the Secondary Market Guarantee Program for First Lien Position 504 Loan Pools, expired on September 23, 2012; however, should this program be reauthorized, SBA wants to ensure that this prohibition remains in effect. Accordingly, SBA is revising this provision to make it clear that the prohibition would apply to any successor to the program described in subpart J of part 120.

Section 120.882(g)(15) (Definition of "qualified debt"). To meet the definition of "qualified debt", paragraph (vii) of this provision requires that the applicant be current on all payments due for not less than one year preceding the date of application. When SBA initially implemented the Debt Refinancing Program under the Jobs Act, it defined "current on all payments due" to mean that no payment scheduled to be made during the one year period was either deferred or more than 30 days past due. *See* 76 FR 9213 (February 17, 2011). In response to comments received, SBA revised this definition to mean that no payment was more than 30 days past due from either the original payment terms or modified payment terms (including deferments) "if such modification was agreed to in writing by the Borrower and the lender of the existing debt prior to the (sic) October 12, 2011." *See* 76 FR 63151 (October 12, 2011). This date was the effective date of the final rule for the Debt Refinancing Program under the Jobs Act, and was intended to ensure that no debt that was modified after the definition was revised would be refinanced under the program. SBA also reserved the right to determine, at its discretion on a loan-by-loan basis, whether modified repayment terms would preclude refinancing under the program.

The October 12, 2011 date is no longer relevant after the expiration of the Debt Refinancing Program in 2012, and SBA is removing it from the rules. However, SBA believes that a debt should not be considered "current on all payments due for not less than one year preceding the date of application" if the payment terms were modified during the one year period. Accordingly, SBA is revising this provision to require that the modification must have been agreed to in writing by the Borrower and the lender of the existing debt no less than one year preceding the date of application. As under the Debt Refinancing Program under the Jobs Act, SBA reserves the right to determine, at its discretion on a loan-by-loan basis, whether modified repayment terms would preclude refinancing under the program.

III. Justification for Publication as Interim Final Rule

In general, before issuing a final rule, SBA publishes the rule for public comment in accordance with the Administrative Procedure Act (APA), 5 U.S.C. 553. The APA provides an exception to this standard rulemaking process where the agency finds good cause to adopt a rule without prior public participation. 5 U.S.C. 553(c)(3)(B). The good cause requirement is satisfied when prior public participation can be shown to be impracticable, unnecessary, or contrary to the public interest. Under such circumstances, an agency may publish an interim final rule without soliciting public comment. In enacting the good cause exception to standard rulemaking procedures, Congress recognized that emergency and other situations arise where an agency can issue a rule without public participation.

With regard to the Debt Refinancing Program, SBA finds that good cause exists to publish this rule as an interim final rule for two reasons. First, the public has already had the opportunity to comment on the rules implementing the Debt Refinancing Program and this interim final rule simply modifies these rules to conform the Debt Refinancing Program to the requirements of the Act.

Second, in order to meet the immediate debt refinancing needs of small businesses, it is essential to be able to implement the Debt Refinancing Program as expeditiously as possible. According to data presented to the Federal Open Market Committee before its January 2016 meeting, there is a concerning trend toward tighter credit sentiment by bank officers since the Debt Refinancing Program expired in 2012. The combination of tighter credit sentiment and the recent increase in interest rates has made it increasingly difficult for small businesses to find lenders willing to refinance small business commercial loans. The Debt Refinancing Program will fill that gap by providing an affordable refinancing product that lenders and the small business community are eagerly awaiting.

Although this rule is being published as an interim final rule, comments are solicited from interested members of the public. These comments must be submitted on or before the deadline for comments stated in this rule. The SBA will consider any comments it receives and the need for making any amendments as a result of the comments.

Compliance With Executive Orders 12866, 12988, 13132, and 13563, the Paperwork Reduction Act (44 U.S.C., Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget has determined that this rule does not constitute a "significant regulatory action" under Executive Order 12866. This rule is also not a major rule under the Congressional Review Act.

Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have preemptive effect or retroactive effect.

Executive Order 13132

This rule does not have federalism implications as defined in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Executive Order. As such it does not warrant the preparation of a Federalism Assessment.

Executive Order 13563

The Consolidated Appropriations Act, 2016, reauthorizes the Debt Refinancing Program, which was first authorized by the Jobs Act. The Agency received significant public comments on the interim final rule that was issued to implement this program (*see* 76 FR 9213, February 17, 2011). SBA considered and discussed these comments in the final rule that was published in the **Federal Register** on October 12, 2011 (76 FR 63151). To assist in developing that interim final rule, the Agency also held a public forum on November 17, 2010 in Boston, Massachusetts.

Except for the modifications to the Debt Refinancing Program made by the Act, the Agency is not making any other substantive changes to the Current Rules, codified at 13 CFR 120.882(g), in this interim final rule.

Paperwork Reduction Act

In order to re-establish the Debt Refinancing Program, SBA has determined that it is necessary to also modify two existing collections of information (OMB Control Number 3245–0071, *Application for Section 504 Loans* and OMB Control Number 3245-0346, *PCLP Quarterly Loan Loss Reserve Report and PCLP Guarantee Request*) to include the requirements to apply for and report on debt refinancing loans. These requirements were previously part of these collections but were removed following expiration of the temporary Debt Refinancing Program in 2012. OMB has approved the revised collections on an emergency basis to enable SBA to move forward with re-establishing the Debt Refinancing Program as expeditiously as possible. The Paperwork Reduction Act requires agencies to follow the standard approval process following receipt of an emergency approval. In light of that requirement, SBA will also publish the required notices in the **Federal Register** to solicit comments from the public on the revised forms and will subsequently resubmit the collections of information to OMB for final review and approval. Any changes to the collection of information as a result of the comments will be reflected in that submission.

Regulatory Flexibility Act

Because this rule is an interim final rule, there is no requirement for SBA to prepare a Regulatory Flexibility Act (RFA) analysis. The RFA requires administrative agencies to consider the effect of their actions on small entities, including small non-profit businesses, and small local governments. Pursuant to the RFA, when an agency issues a rule, the agency must prepare an analysis that describes whether the impact of the rule will have a significant economic impact on a substantial number of these small entities. However, the RFA requires such analysis only where notice and comment rulemaking is required. As discussed above, SBA has determined that there is good cause to publish this rule without soliciting public comment. This rule is, therefore, exempt from the RFA requirements.

List of Subjects in 13 CFR Part 120

Loan programs—business, Small businesses, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, SBA amends 13 CFR part 120 as follows:

PART 120—BUSINESS LOANS

■ 1. The authority citation for part 120 is revised to read as follows:

Authority: 15 U.S.C. 634(b)(6), (b)(7), (b)(14), (h), and note, 636(a), (h) and (m), 650, 687(f), 696(3), and 697(a) and (e); Public Law 111–5, 123 Stat. 115, Public Law 111–240, 124 Stat. 2504; Public Law 114–113, 129 Stat. 2242.

■ 2. Amend § 120.882 by revising paragraph (g) introductory text, paragraphs (g)(3), (g)(10), (g)(13), and the second sentence of paragraph (vii) in the definition of "Qualified debt" in paragraph (g)(15)(vii) to read as follows:

§ 120.882 Eligible project costs for 504 loans.

* * * * *

(g) SBA may approve a Refinancing Project of a qualified debt subject to the following conditions and requirements:

* * * * *

(3) The cost to the Federal Government of making guarantees under this subsection (g) and under section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) during the fiscal year in which the guarantee is made is zero;

* * * * *

(10) A CDC must limit the amount of its loans under this paragraph (g) so that, during any Federal fiscal year, the amount of the new loans approved under this paragraph (g) does not exceed 50% of the total dollar amount of the CDC's 504 loans approved (including the loans approved under this paragraph (g)) during the previous fiscal year. This limitation may be waived upon application by the CDC and upon a determination by SBA that the refinance loan is needed for good cause.

* * * * *

(13) The Third Party Loan may not be sold on the secondary market as a part of a pool guaranteed under subpart J of this part, or any successor to this program, when the debt being refinanced is same institution debt;

* * * * *

(15) * * *

Qualified debt * * *

(vii) * * * For the purposes of this paragraph (vii), "current on all payments due" means that no payment was more than 30 days past due from either the original payment terms or modified payment terms (including deferments) if such modification was agreed to in writing by the Borrower and the lender of the existing debt no less than one year preceding the date of application. * * *

* * * * *

Maria Contreras-Sweet,
Administrator.

[FR Doc. 2016–12447 Filed 5–23–16; 4:15 pm]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR part 93

[Docket No.: FAA–2006–25755]

Operating Limitations at New York Laguardia Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension to order.

SUMMARY: This action extends the Order Limiting Operations at New York LaGuardia Airport (LGA) published on December 27, 2006, and most recently extended March 27, 2014. The Order remains effective until October 27, 2018.

DATES: This action is effective on May 25, 2016.

ADDRESSES: Requests may be submitted by mail to Slot Administration Office, AGC–240, Office of the Chief Counsel, 800 Independence Avenue SW., Washington, DC 20591, or by email to: *7-awa-slotadmin@faa.gov.*

FOR FURTHER INFORMATION CONTACT: For questions concerning this Order contact: Susan Pfingstler, System Operations Services, Air Traffic Organization, Federal Aviation Administration, 600 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–6462; email *susan.pfingstler@faa.gov.*

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You may obtain an electronic copy using the Internet by:

(1) Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);

(2) Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/;* or

(3) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html.*

You also may obtain a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

Background

The FAA has long limited the number of arrivals and departures at LGA during peak demand periods through the implementation of the High Density Rule (HDR), to address constraints based on LGA's limited runway capacity.[1] By statute enacted in April 2000, the HDR's applicability to LGA operations terminated as of January 1, 2007.[2]

In anticipation of the HDR's expiration, the FAA proposed a long-term rule that would limit the number of scheduled and unscheduled operations at LGA.[3] The FAA issued an Order on December 27, 2006, adopting temporary limits pending the completion of the rulemaking.[4] This Order was amended on November 8, 2007, and August 19, 2008.[5] On October 10, 2008, the FAA published the Congestion Management Rule for LaGuardia Airport, which would have become effective on December 9, 2008.[6] That rule was stayed by the U.S. Court of Appeals for the District of Columbia Circuit and subsequently rescinded by the FAA.[7] The FAA extended the December 27, 2006, Order placing temporary limits on operations at LGA, as amended, on October 7, 2009,[8] on April 4, 2011,[9] on May 14, 2013,[10] and on March 27, 2014.[11]

Under the Order, as amended, the FAA (1) maintains the current hourly limits on scheduled and unscheduled operations at LGA during the peak period; (2) imposes an 80 percent minimum usage requirement for Operating Authorizations (OAs) with defined exceptions; (3) provides a mechanism for withdrawal of OAs for FAA operational reasons; (4) provides for a lottery to reallocate withdrawn, surrendered, or unallocated OAs; and (5) allows for trades and leases of OAs for consideration for the duration of the Order.

The reasons for issuing the Order have not changed appreciably since it was implemented. Runway capacity at LGA remains limited, while demand for access to LGA remains high and average weekday hourly flights are generally scheduled to a level consistent with the limits under this Order. The FAA has reviewed the on-time and other performance metrics in the peak May to August 2014 and 2015 months and found continuing improvements relative to the same period in 2007.[12] Without the operational limitations imposed by this Order, the FAA expects severe congestion-related delays would occur at LGA and at other airports throughout the National Airspace System (NAS). The FAA will continue to monitor performance and runway capacity at LGA to determine if changes are warranted.

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[1] 33 FR 17896 (Dec. 3, 1968). The FAA codified the rules for operating at high density traffic airports in 14 CFR part 93, subpart K. The HDR required carriers to hold a reservation, which came to be known as a "slot," for each takeoff or landing under instrument flight rules at the high density traffic airports.

[2] Aviation Investment and Reform Act for the 21st Century (AIR–21), Public Law 106–181 (Apr. 5, 2000), 49 U.S.C. 41715(a)(2).

[3] 71 FR 51360 (August 29, 2006); Docket FAA–2006–25709. The FAA subsequently published a Supplemental Notice of Proposed Rulemaking. 73 FR 20846 (Apr. 17, 2008).

[4] 71 FR 77854.

[5] 72 FR 63224; 73 FR 48428.

[6] 73 FR 60574, amended by 73 FR 66517 (Nov. 10, 2008).

[7] 74 FR 52132 (Oct. 9, 2009).

[8] 74 FR 51653.

[9] 76 FR 18616, amended by 77 FR 30585 (May 23, 2012).

[10] 78 FR 28278.

[11] 79 FR 17222.

[12] Docket No. FAA–2006–25755 includes a copy of the MITRE analysis completed for the FAA.

On January 8, 2015, the DOT and FAA published a notice of proposed rulemaking "Slot Management and Transparency at LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport."[13] The DOT and FAA proposed to replace the Orders limiting scheduled operations at JFK, limiting scheduled operations at Newark Liberty International Airport (EWR), and limiting scheduled and unscheduled operations at LaGuardia Airport (LGA) with a more permanent system for managing slots. The NPRM included certain proposed changes to how slots are currently managed in the New York City area in order to increase transparency and address issues considering anti-competitive behavior.

Since the FAA and DOT first initiated this rulemaking effort there have been significant changes in circumstances affecting New York City area airports, including changes in competitive effects from ongoing industry consolidation, slot utilization and transfer behavior, and actual operational performance at the three airports. Furthermore, the FAA recently announced that slot controls are no longer needed at EWR (81 FR 19861). In light of the changes in market conditions and operational performance at the New York City area airports, the Department is withdrawing the NPRM by **Federal Register** notice published May 16, 2016 (81 FR 30218), to allow for further evaluation of these changes.

Accordingly, the FAA has concluded it is necessary to extend the expiration date of this Order until October 27, 2018. This expiration date coincides with the extended expiration date for the Order limiting scheduled operations at JFK, as also extended by action published in today's **Federal Register**.[14] No amendments other than the expiration date have been made to this Order.

The FAA finds that notice and comment procedures under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. The FAA further finds that good cause exists to make this Order effective in less than 30 days.

The Amended Order

In consideration of the foregoing, the Order, as amended, is recited below in its entirety:

A. Scheduled Operations

With respect to scheduled operations at LaGuardia:

1. The final Order governs scheduled arrivals and departures at LaGuardia from 6 a.m. through 9:59 p.m., Eastern Time, Monday through Friday and from 12 noon through 9:59 p.m., Eastern Time, Sunday. Seventy-one (71) Operating Authorizations are available per hour and will be assigned by the FAA on a 30-minute basis. The FAA will permit additional, existing operations above this threshold; however, the FAA will retire Operating Authorizations that are surrendered to the FAA, withdrawn for non-use, or unassigned during each affected hour until the number of Operating Authorizations in that hour reaches seventy-one (71).

2. The final Order takes effect on January 1, 2007, and will expire on October 27, 2018.

3. The FAA will assign operating authority to conduct an arrival or a departure at LaGuardia during the affected hours to the air carrier that holds equivalent slot or slot exemption authority under the High Density Rule of FAA slot exemption rules as of January 1, 2007; to the primary marketing air carrier in the case of AIR–21 small hub/nonhub airport slot exemptions; or to the air carrier operating the flights as of January 1, 2007, in the case of a slot held by a non carrier. The FAA will not assign operating authority under the final Order to any person or entity other than a certificated U.S. or foreign air carrier with appropriate economic authority under 14 CFR part 121, 129 or 135. The Chief Counsel of the FAA will be the final decision maker regarding the initial assignment of Operating Authorizations.

4. For administrative tracking purposes only, the FAA will assign an identification number to each Operating Authorization.

5. An air carrier may lease or trade an Operating Authorization to another carrier for any consideration, not to exceed the duration of the Order. Notice of a trade or lease under this paragraph must be submitted in writing to the FAA Slot Administration Office, facsimile (202) 267–7277 or email *7-AWASlotadmin@faa.gov,* and must come from a designated representative of each carrier. The FAA must confirm and approve these transactions in writing prior to the effective date of the transaction. However, the FAA will approve transfers between carriers under the same marketing control up to 5 business days after the actual operation. This post-transfer approval is limited to accommodate operational disruptions that occur on the same day of the scheduled operation.

6. Each air carrier holding an Operating Authorization must forward in writing to the FAA Slot Administration Office a list of all Operating Authorizations held by the carrier along with a listing of the Operating Authorizations actually operated for each day of the two-month reporting period within 14 days after the last day of the two-month reporting period beginning January 1 and every two months thereafter. Any Operating Authorization not used at least 80 percent of the time over a two-month period will be withdrawn by the FAA except:

A. The FAA will treat as used any Operating Authorization held by an air carrier on Thanksgiving Day, the Friday following Thanksgiving Day, and the period from December 24 through the first Saturday in January.

B. The FAA will treat as used any Operating Authorization obtained by an air carrier through a lottery under paragraph 7 for the first 120 days after allocation in the lottery.

C. The Administrator of the FAA may waive the 80 percent usage requirement in the event of a highly unusual and unpredictable condition which is beyond the control of the air carrier and which affects carrier operations for a period of five consecutive days or more.

7. In the event that Operating Authorizations are withdrawn for nonuse, surrendered to the FAA or are unassigned, the FAA will determine whether any of the available Operating Authorizations should be reallocated. If so, the FAA will conduct a lottery using the provisions specified under 14 CFR 93.225. The FAA may retime an Operating Authorization prior to reallocation in order to address operational needs. When the final Order expires, any Operating Authorizations reassigned under this paragraph, except those assigned to new entrants or limited incumbents, will revert to the FAA for reallocation according to the reallocation mechanism prescribed in the final rule that succeeds the final Order.

8. If the FAA determines that a reduction in the number of allocated Operating Authorizations is required to meet operational needs, such as reduced airport capacity, the FAA will conduct a weighted lottery to withdraw Operating Authorizations to meet a reduced hourly or half-hourly limit for scheduled operations. The FAA will provide at least 45 days' notice unless otherwise required by operational

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[13] 80 FR 1274.

[14] The FAA notes that the Order limiting scheduled operations at EWR will expire October 29, 2016; beginning on October 30, 2016, EWR is designated a Level 2 schedule-facilitated airport consistent with the FAA's action published in the **Federal Register** on April 6, 2016. *See id.*

needs. Any Operating Authorization that is withdrawn or temporarily suspended will, if reallocated, be reallocated to the air carrier from which it was taken, provided that the air carrier continues to operate scheduled service at LaGuardia.

9. The FAA will enforce the final Order through an enforcement action seeking a civil penalty under 49 U.S.C. 46301(a). An air carrier that is not a small business as defined in the Small Business Act, 15 U.S.C. 632, would be liable for a civil penalty of up to $25,000 for every day that it violates the limits set forth in the final Order. An air carrier that is a small business as defined in the Small Business Act would be liable for a civil penalty of up to $10,000 for every day that it violates the limits set forth in the final Order. The FAA also could file a civil action in U.S. District Court, under 49 U.S.C. 46106, 46107, seeking to enjoin any air carrier from violating the terms of the final Order.

B. Unscheduled Operations:[15]

With respect to unscheduled flight operations at LaGuardia, the FAA adopts the following:

1. The final order applies to all operators of unscheduled flights, except helicopter operations, at LaGuardia from 6 a.m. through 9:59 p.m., Eastern Time, Monday through Friday and from 12 noon through 9:59 p.m., Eastern Time, Sunday.

2. The final Order takes effect on January 1, 2007, and will expire on October 27, 2018.

3. No person can operate an aircraft other than a helicopter to or from LaGuardia unless the operator has received, for that unscheduled operation, a reservation that is assigned by the David J. Hurley Air Traffic Control System Command Center's Airport Reservation Office (ARO). Additional information on procedures for obtaining a reservation will be available via the Internet at *http://www.fly.faa.gov/ecvrs.*

4. Three (3) reservations are available per hour for unscheduled operations at LaGuardia. The ARO will assign reservations on a 30-minute basis.

5. The ARO receives and processes all reservation requests. Reservations are assigned on a "first-come, first-served" basis, determined as of the time that the ARO receives the request. A cancellation of any reservation that will not be used as assigned would be required.

6. Filing a request for a reservation does not constitute the filing of an instrument flight rules (IFR) flight plan, as separately required by regulation. After the reservation is obtained, an IFR flight plan can be filed. The IFR flight plan must include the reservation number in the "remarks" section.

7. Air Traffic Control will accommodate declared emergencies without regard to reservations. Nonemergency flights in direct support of national security, law enforcement, military aircraft operations, or public use aircraft operations will be accommodated above the reservation limits with the prior approval of the Vice President, System Operations Services, Air Traffic Organization. Procedures for obtaining the appropriate reservation for such flights are available via the Internet at *http://www.fly.faa.gov/ecvrs.*

8. Notwithstanding the limits in paragraph 4, if the Air Traffic Organization determines that air traffic control, weather, and capacity conditions are favorable and significant delay is not likely, the FAA can accommodate additional reservations over a specific period. Unused operating authorizations can also be temporarily made available for unscheduled operations. Reservations for additional operations are obtained through the ARO.

9. Reservations cannot be bought, sold, or leased.

Issued in Washington, DC, on May 18, 2016.

Daniel E. Smiley,

Vice President, System Operations Services.

[FR Doc. 2016–12220 Filed 5–24–16; 8:45 am]

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[15] Unscheduled operations are operations other than those regularly conducted by an air carrier between LaGuardia and another service point. Unscheduled operations include general aviation, public aircraft, military, charter, ferry, and positioning flights. Helicopter operations are excluded from the reservation requirement. Reservations for unscheduled flights operating under visual flight rules (VFR) are granted when the aircraft receives clearance from air traffic control to land or depart LaGuardia. Reservations for unscheduled VFR flights are not included in the limits for unscheduled operators.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 870

[Docket No. FDA–2012–N–1173]

Cardiovascular Devices; Reclassification of External Cardiac Compressor; Reclassification of Cardiopulmonary Resuscitation Aids

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final order to reclassify external cardiac compressors (ECC) (under FDA product code DRM), a preamendments class III device, into class II (special controls). FDA is also creating a separate classification regulation for a subgroup of devices previously included within this classification regulation, to be called cardiopulmonary resuscitation (CPR) aids, and reclassifying these devices from class III to class II for CPR aids with feedback and to class I for CPR aids without feedback.

DATES: This order is effective on May 25, 2016.

FOR FURTHER INFORMATION CONTACT: Hina Pinto, Center for Devices and Radiological Health, 10903 New Hampshire Ave., Bldg. 66, Rm. 1652, Silver Spring, MD 20993, 301–796–6351, *hina.pinto@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), the Safe Medical Devices Act of 1990 (Pub. L. 101–629), the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115), the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107–250), the Medical Devices Technical Corrections Act (Pub. L. 108–214), the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85), and the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144), among other amendments, established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513(d) of the FD&C Act, devices that were in commercial distribution before the enactment of the 1976 amendments, May 28, 1976 (generally referred to as preamendments devices), are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment by interested persons, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices), are automatically classified by section 513(f) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval unless, and until, the device is reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and 21 CFR part 807.

A preamendments device that has been classified into class III and devices found substantially equivalent by means of premarket notification (510(k)) procedures to such a preamendments device or to a device within that type (both the preamendments and substantially equivalent devices are referred to as preamendments class III devices) may be marketed without submission of a premarket approval application (PMA) until FDA issues a final order under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval or until the device is subsequently reclassified into class I or class II.

On July 9, 2012, FDASIA was enacted. Section 608(a) of FDASIA amended section 513(e) of the FD&C Act, changing the mechanism for reclassifying a device from rulemaking to an administrative order.

Section 513(e) of the FD&C Act provides that FDA may, by administrative order, reclassify a device based upon "new information." FDA can initiate a reclassification under section 513(e) or an interested person may petition FDA to reclassify a preamendments device. The term "new information," as used in section 513(e) of the FD&C Act, includes information developed as a result of a reevaluation of the data before the Agency when the device was originally classified, as well as information not presented, not available, or not developed at that time. (See, *e.g., Holland-Rantos Co.* v. *U.S. Dep't of Health, Educ. & Welfare,* 587 F.2d 1173, 1174 n.1 (D.C. Cir. 1978); *Upjohn Co.* v. *Finch,* 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard,* 366 F.2d 177 (7th Cir. 1966).)

Reevaluation of the data previously before the Agency is an appropriate basis for subsequent action where the reevaluation is made in light of newly available authority (see *Bell,* 366 F.2d at 181; *Ethicon, Inc.* v. *FDA,* 762 F. Supp. 382, 388–91 (D.D.C. 1991)), or in light of changes in "medical science" (*Upjohn,* 422 F.2d at 951). Whether data before the Agency are old or new data, the "new information" to support reclassification under section 513(e) must be "valid scientific evidence," as defined in section 513(a)(3) of the FD&C Act and § 860.7(c)(2) (21 CFR 860.7(c)(2)). (See, *e.g., Gen. Med. Co.* v. *FDA,* 770 F.2d 214 (D.C. Cir. 1985); *Contact Lens Mfrs. Ass'n* v. *FDA,* 766 F.2d 592 (D.C. Cir. 1985), cert. denied, 474 U.S. 1062 (1986).)

FDA relies upon "valid scientific evidence" in the classification process to determine the level of regulation for devices. To be considered in the reclassification process, the "valid scientific evidence" upon which the Agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, *e.g.,* the contents of a pending PMA. (See section 520(c) of the FD&C Act (21 U.S.C. 360j(c)).)

Section 513(e)(1) of the FD&C Act sets forth the process for issuing a final reclassification order. Specifically, prior to the issuance of a final order reclassifying a device, the following must occur: (1) Publication of a proposed order in the **Federal Register**; (2) a meeting of a device classification panel described in section 513(b) of the FD&C Act; and (3) consideration of comments to a public docket. FDA published a proposed order to reclassify this device in the **Federal Register** of January 8, 2013 (78 FR 1162). FDA has held a meeting of a device classification panel described in section 513(b) of the FD&C Act with respect to ECC devices, including CPR aids, and therefore, has met this requirement under section 513(e)(1) of the FD&C Act. As explained further in section III, a meeting of a device classification panel (the Panel) described in section 513(b) of the FD&C Act took place on September 11, 2013, to discuss whether ECC devices, including CPR aids, should be reclassified or remain in class III. The Panel recommended that ECC and CPR aid devices with feedback be reclassified into class II because there was sufficient information to establish special controls to provide a reasonable assurance of safety and effectiveness. The Panel further recommended that CPR aid devices without feedback be reclassified into class I because general controls are sufficient to provide a reasonable assurance of safety and effectiveness. FDA received and has considered four comments on the proposed order as discussed in section II.

II. Public Comments in Response to the Proposed Order

In response to the January 8, 2013, proposed order to reclassify external cardiac compressors (including CPR aid devices), FDA received four comments. Two comments submitted were supportive of the proposed reclassification of the devices, citing, among other things, their safe history of use and the need for such devices in situations with inadequate access to professionally trained rescuers.

(Comment 1) One comment disagreed with FDA's proposal to reclassify ECC devices and sought a proposed order confirming their status as class III devices and requiring PMAs with data from well-controlled clinical trials to ensure that these devices are safe and effective. The comment stated that the life-sustaining nature of the device along with equivocal existing clinical evidence, including data indicating that use of ECC may result in neurological outcomes more severe than manual CPR, would support keeping the device in class III. The comment stated that classification of ECCs should be reviewed by a device classification panel. The comment further suggested that the risks to health identified in the proposed order should include death and neurological damage, and that there are existing data that use of the ECC device or device malfunction can delay the start of compressions and that professional first-responders often use the device improperly.

(Response) FDA disagrees with the comment. FDA acknowledges that the data on the use of ECC devices as a *replacement* to effective manual CPR are equivocal; however, the proposed order recommended reclassification of the device as an *adjunct* to manual CPR. In this final order, FDA has further refined the identification for the device in 21 CFR 870.5200 to include "as an adjunct to manual cardiopulmonary resuscitation (CPR) when effective manual CPR is not possible (*e.g.,* during patient transport, extended CPR when fatigue may prohibit the delivery of effective/consistent compressions to the victim, or when insufficient EMS personnel are available to provide effective CPR)." FDA is only reclassifying into class II the ECC devices indicated for use when effective manual CPR compressions cannot otherwise be provided by the rescuer. In this final order, FDA has further revised the device identification and the labeling special controls (see section IV) to clarify this intended use.

It is well-established in the clinical community that CPR, including effective compressions, is critical to improve the chances of survival for a victim of sudden cardiac arrest (Ref. 1). In such circumstances when effective manual CPR compressions cannot be provided by the rescuer, use of an ECC device that has been demonstrated to provide compressions consistent with the American Heart Association's (AHA) "Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care" is warranted (Ref. 1). Although controlled clinical trials for adjunctive use might be difficult to conduct because denying use of an ECC device on patients in the "control" arm could decrease their chance for survival, it is well established that chest compressions are crucial to maintaining perfusion and that compressions of adequate rate and depth are necessary to increase the probability of survival in victims of sudden cardiac arrest (Ref. 1). As such, FDA believes that these devices, when indicated for use as an adjunct to manual CPR during patient transport or for use in situations where fatigue of or inaccessibility to emergency medical personnel may otherwise prevent adequate chest compressions, can be regulated as class II devices. These devices should not be used as a replacement for manual CPR.

FDA presented a modified ECC device identification and the available scientific evidence to a device classification panel that reached consensus in support of FDA's proposal for reclassification (see section III). FDA also presented the risks to health to the Panel, and there was consensus support by the Panel of the risks as originally identified.

(Comment 2) This comment also states that FDA failed to properly consider death or neurological injury as a health risk associated with these devices. However, as discussed in section III, death and neurological damage are outcomes already covered by the identified risks of "ineffective compressions."

(Response) FDA's presentation to the Panel also included a review of adverse events. This review did not reveal a significant number of adverse events associated with device malfunction or improper use, given the usage of these devices over more than a decade (*e.g.,* 88 adverse event reports over a 12-year period, with 33 of the 88 malfunctions occurring in 1 year—2012—which can be attributed to an increase in reported problems for one particular device that eventually resulted in a recall). Additionally, these issues are also adequately addressed with the implementation of special controls related to performance data, labeling on appropriate use, and general controls, including good manufacturing practices. The Panel also reached consensus in support of the special controls, and FDA has modified the special controls in response to certain concerns expressed by the Panel, including concerns related to potential for use of the ECC device to delay CPR (see section III).

(Comment 3) One comment suggested that CPR aid devices should be identified separately from ECC devices, and that CPR aid devices that provide feedback solely on compression should be defined separately from other CPR aid devices that provide feedback on additional CPR parameters, such as ventilation. The comment further suggested that CPR aid devices should be made widely available (*e.g.,* "over-the-counter") and are low-risk devices that should be exempt from premarket notification (510(k)). The comment noted that the risks to health described in the proposed order as well as the proposed special controls could instead be covered by general controls, including design controls under 21 CFR part 820, and hence classification of these devices into class I was appropriate.

(Response) FDA agrees, in part, with the comment. FDA agrees that CPR aid devices are distinct in intended use and technology when compared to devices that automatically deliver compressions. In this final order, FDA has separated CPR aid devices into a separate classification regulation, 21 CFR 870.5210 (see section VI). FDA also agrees that availability of these devices over-the-counter is appropriate in certain instances when the devices are adequately designed and provided with adequate labeling on appropriate use. As discussed in this document, FDA has modified the criteria for exemption of these devices from premarket notification, and such exemption is no longer tied to prescription use as compared to over-the-counter use.

FDA disagrees, in part, with the comment related to the classification of the CPR aid devices. Although, FDA agrees that the risks associated with CPR aid devices without feedback can be adequately mitigated with general controls, FDA has determined that CPR aid devices with feedback require special controls. FDA did consider whether it was more appropriate to evaluate the technology contained within CPR aid devices and consider appropriate regulatory controls based on technological characteristics, as opposed to prescription-use and compliance with CPR guidelines as was originally proposed. FDA determined that based on technological complexity, some CPR aid devices could be appropriately regulated in class I (general controls) and class II (special controls). CPR aid devices can be appropriately regulated as follows: (1) CPR aid devices without feedback are reclassified into class I, (2) CPR aid devices with feedback, but without software are reclassified into class II, exempt from submission of a 510(k), and (3) CPR aid devices with feedback with software are reclassified into class II (special controls), not exempt from 510(k). Further, FDA notes that design controls under 21 CFR 820.30 would apply to all CPR aid devices with software.

This final order, therefore, now divides CPR aid devices into those without feedback (class I) or with feedback (class II). This approach was presented to and supported by the Panel (see section III). CPR aid devices that do not provide feedback (*e.g.,* hand positioning aids and "metronome" devices that provide sounds to prompt the rescuer to deliver compressions at a rate consistent with CPR guidelines) can be regulated in class I, subject to the general controls and generally exempt from premarket notification (subject to the limitations of exemption contained in § 870.9 (21 CFR 870.9)). FDA continues to believe that CPR aid devices that do provide feedback to the rescuer (*e.g.,* devices that sit on the patient's chest, underneath the hands of the rescuer, to provide feedback on compression rate/depth/etc., or devices that provide prompts to the rescuer on appropriate CPR sequence) require special controls, in combination with general controls, to provide a reasonable assurance of safety and effectiveness. FDA acknowledges that some of the specified performance testing and other special controls requirements will be managed as part of a manufacturer's design control process; however, FDA disagrees that the general requirements to conform to design controls requirements under 21 CFR 820.30 are sufficient to ensure that manufacturers will perform the tests and other requirements that are necessary as specifically identified in the special controls.

FDA further determined that due to their simple and well-understood technological characteristics, exemption from premarket notification (510(k)) is appropriate for mechanical or electro-mechanical CPR aid devices that provide feedback (*e.g.*, devices that utilize bladders and pressure gauges to provide feedback on compression depth), when such devices comply with the special controls and subject to the limitations of exemption contained in § 870.9. However, devices that contain software have complex and evolving levels of visual and audio feedback to users, warranting continued review under the 510(k) process.

III. Deliberations of the Panel

In Session I on September 11, 2013, the Circulatory System Devices Panel (the Panel) of the Medical Devices Advisory Committee considered the proposed reclassification of ECC devices (Ref. 2). The Panel was asked to provide input on the risks to health, safety, and effectiveness of ECC devices and CPR aid devices. The Panel was also asked to consider FDA's proposed premarket regulatory classification strategy for ECC and CPR aid devices, which, for CPR aid devices in particular, had been modified based on public comments received on the proposed order for ECC devices (see FDA's Panel Executive Summary, Ref. 2). The regulatory strategy presented to the Panel included: (1) Reclassification for ECC devices from class III to class II (special controls); (2) reclassification of CPR aid devices without feedback to class I (general controls), with over-the-counter access appropriate if the device is labeled for professionally trained rescuers; and (3) reclassification of CPR aid devices with feedback to class II (special controls), with over-the-counter access appropriate if human factors testing demonstrates proper use by the intended user identified in the labeling (professionally trained and/or untrained lay rescuers).

The Panel reached consensus in supporting the aforementioned classification strategy for CPR aid devices. There was significant panel deliberation on reclassification of the automated ECC devices that deliver compressions. The Panel expressed concern regarding the limited available clinical evidence for these devices. Based on the definition of valid scientific evidence in § 860.7(c)(2), which allows for "reports of significant human experience with a marketed device, from which it can fairly and responsibly be concluded by qualified experts that there is a reasonable assurance of the safety and effectiveness of a device under its conditions of use" and the wide clinical knowledge base supporting that effective CPR (including compressions) optimize the chance for survival of victims of cardiac arrest, the Panel consensus was that it was appropriate to reclassify these devices for adjunctive use (*e.g.*, in situations where a rescuer cannot provide effective manual compressions). The Panel acknowledged that there is insufficient evidence to conclude that ECC devices are as effective as manual CPR.

As discussed at the Panel meeting, FDA has identified the public health benefits in using ECC devices (Ref. 2). Automated ECCs are used by emergency medical personnel to automate chest compressions during CPR. These devices are typically used in situations where extended CPR is required, such as during patient transport or when there are an inadequate number of trained personnel during extended CPR. FDA believes that these devices, when indicated for use as an adjunct to manual CPR during patient transport or for use in situations where fatigue of or inaccessibility to emergency medical personnel may otherwise prevent adequate chest compressions, will serve a public health benefit. In the absence of effective chest compressions, death is a likely outcome.

CPR aid devices also have public health benefits because these devices are used to remind emergency medical personnel of appropriate CPR steps and technique and to provide feedback on the rate and depth of compressions (Ref. 2). Specifically, these devices are intended to assist the rescuer in providing consistent and effective/optimal CPR, and can include instruction, rate, and/or breathing prompts, and real-time feedback through the duration of CPR and in accordance with current accepted CPR guidelines. The AHA guidelines on cardiopulmonary resuscitation and emergency cardiovascular care state that "real-time CPR prompting and feedback technology such as visual and auditory prompting devices can improve the quality of CPR" (Ref. 1). CPR aid devices are intended to encourage the rescuer to perform consistent and optimal CPR over the duration of needed therapy.

FDA also presented the risks to health to the Panel, and the Panel reached consensus in supporting the risks as originally identified with the following comments: (1) The risks identified for CPR aid devices should also include the same risks as identified for the ECC devices because a CPR aid device that provides incorrect feedback can result in similar risks as the ECC devices, and (2) death and neurologic injury are not specifically identified in the ECC risks. FDA considered the Panel's input related to the risks of the device and determined that the originally proposed risks of the devices are appropriate. The risks to health are those risks directly associated with use of the device. The CPR aid device cannot directly cause tissue damage, bone breakage, etc. and these risks are a consequence of the application of CPR by a rescuer. Moreoever, since "ineffective compressions" could result in neurological damage and/or death, these risks are adequately covered by the identified risk of "ineffective compressions."

The Panel also made recommendations to FDA regarding additional special controls for ECC and CPR aid devices including: (1) Disclosure of limitations on patient size and/or use population, (2) controls over the time necessary to deploy the device, and (3) reinforcing that the ECC device is for adjunctive use. FDA agrees with the special control recommendations for ECC devices and has revised the special controls accordingly; for CPR aid devices, FDA does not believe controls are necessary during the time needed to deploy the device since use of these devices would not result in a significant delay in administering CPR.

After considering input from the Panel, FDA has determined that the risks to health identified for ECC and CPR aid devices (with and without feedback) can be adequately mitigated by the special controls as outlined in tables 1 to 3.

TABLE 1—RISKS TO HEALTH AND MITIGATION MEASURES FOR ECC DEVICES

Identified risk	Mitigation measures
Cardiac arrhythmias or electrical shock	• Electrical Safety and Electromagnetic Compatibility Testing (e.g., ISO 60601–1 and ISO 60601–1–2). • Labeling.
Tissue/organ damage	• Performance testing, including bench testing. • Software verification/validation/hazards analysis. • Human factors testing and analysis. • Labeling. • Training.
Bone breakage (ribs, sternum)	• Performance testing, including bench testing. • Software verification/validation/hazards analysis. • Human factors testing and analysis. • Labeling. • Training.
Inadequate blood flow	• Performance testing, including bench testing. • Software verification/validation/hazards analysis. • Human factors testing and analysis. • Labeling. • Training.
Adverse skin reactions	• Assessment/use of biocompatible materials.

TABLE 2—RISKS TO HEALTH AND MITIGATION MEASURES FOR CPR AID DEVICES WITH FEEDBACK

Identified risk	Mitigation measures
Suboptimal CPR delivery	• Performance testing. • For devices that incorporate electrical components, electrical safety and electromagnetic compatibility testing; • For devices containing software, software verification, validation, and hazard; • Human factors testing and analysis; • Labeling must include clinical training, if needed.
Adverse skin reactions	• Assessment/use of biocompatible materials.

TABLE 3—RISKS TO HEALTH AND MITIGATION MEASURES FOR CPR AID DEVICES WITHOUT FEEDBACK

Identified risk	Mitigation measures
Suboptimal CPR delivery	• General Controls ○ Labeling: Intended for use by professionally trained rescuers. ○ Quality system regulation requirements, including design controls for devices that include software.
Adverse skin reactions	• Assessment/use of biocompatible materials.[1]

[1] Given the benefit/risk profile, this risk can be adequately mitigated in this patient population by general controls.

IV. The Final Order

Under section 513(e) of the FD&C Act, FDA is adopting its findings, in part, as published in the preamble to the proposed order (78 FR 1162, January 8, 2013). FDA has made revisions in this final order in response to the comments received (see section II) and the deliberations of the Panel (see section III). As published in the proposed order, FDA is issuing this final order to reclassify ECC (under FDA product code DRM) from class III to class II and establish special controls by revising part 870 (21 CFR 870.5200). The identification for 21 CFR 870.5200 has been revised to specify that these are prescription devices and to clarify that these devices are reclassified only for adjunctive use by changing the identification to read ". . . when effective manual CPR is not possible (*e.g.,* during patient transport or extended CPR when fatigue may prohibit the delivery of effective/consistent compressions to the victim, or when insufficient EMS personnel are available to provide effective CPR)."

For clarity, in this final order, FDA has created a separate classification regulation for CPR aid devices, 21 CFR 870.5210, instead of continuing to include these devices within the ECC classification regulation as was originally proposed and how the devices were originally cleared for marketing authorization. In making this decision, FDA considered a comment received on the proposed order that supported creating a separate identity for CPR aid devices because their intended uses and technological characteristics are distinct from ECC devices. Additionally, the creation of a separate classification regulation for CPR aid devices allows for further clarification of the exemption from the premarket notification procedures for certain devices. The new classification regulation for CPR aid devices in this final order includes the same special controls that were included in the 2013 proposed order; however, FDA has divided the CPR aid identification into devices that provide feedback to the rescuer and those that do not. Devices that do not provide feedback have been reclassified into class I, based upon the ability of general controls to sufficiently mitigate the risks to health and demonstrate a reasonable assurance of safety and effectiveness of these devices, whereas devices that do provide feedback are reclassified into class II as originally proposed, based upon the additional need for special controls, in combination with general controls, to sufficiently mitigate the risks to health and demonstrate a reasonable assurance of safety and effectiveness of these devices.

In response to the input of the Panel, FDA also made refinements to the proposed special controls. FDA added special controls requirements for automated ECC devices, including performance testing of the time necessary to deploy the device and additional labeling requirements that include: (1) Prominent display of adjunctive-only use of the device, (2) labeling of the expected deployment time, and (3) labeling limitations on patient population/size (*e.g.,* adult, pediatric, infant) for use of the device. FDA also added the labeling requirement regarding limitations on patient population/size for the CPR aid devices and modified the language for the human factors special controls to read: "Human factors testing and analysis must validate that the device design and labeling are sufficient for the intended user."

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the devices. FDA has determined that premarket notification is necessary to provide reasonable assurance of safety and effectiveness of ECC devices, and therefore, this device type is not exempt from premarket notification requirements. However, FDA has determined that premarket notification is not necessary for some class II CPR aid devices. FDA modified the criteria for exemption from section 510(k) for CPR aid devices with feedback from the originally proposed "if it is a prescription use device that provides feedback to the rescuer consistent with the current AHA Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care Science in compliance" to "if it does not contain software (*e.g.,* is mechanical or electro-mechanical)."

Following the effective date of this final order, firms marketing an ECC device or CPR aid device with feedback must comply with the applicable mitigation measures set forth in the codified special controls (see section VII). Manufacturers of ECC devices and CPR aid devices with feedback that have not been legally marketed prior to the effective date of the final order, or models (if any) that have been legally marketed but are required to submit a new 510(k) under 21 CFR 807.81(a)(3) because the device is about to be significantly changed or modified, must obtain 510(k) clearance and demonstrate compliance with the special controls included in the final order, before marketing the new or changed device.

V. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Paperwork Reduction Act of 1995

This final order refers to currently approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 814, subpart B, are approved under OMB control number 0910–0231; the collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; and the collections of information under 21 CFR part 801 have been approved under OMB control number 0910–0485.

VII. Codification of Orders

Prior to the amendments by FDASIA, section 513(e) of the FD&C Act provided for FDA to issue regulations to reclassify devices. Although section 513(e) as amended requires FDA to issue final orders rather than regulations, FDASIA also provides for FDA to revoke previously issued regulations by order. FDA will continue to codify classifications and reclassifications in the Code of Federal Regulations (CFR). Changes resulting from final orders will appear in the CFR as changes to codified classification determinations or as newly codified orders. Therefore, under section 513(e)(1)(A)(i) of the FD&C Act, as amended by FDASIA, in this final order, we are revoking the requirements in 21 CFR 870.5200 related to the classification of ECCs as class III devices and codifying the reclassification of ECCs into class II (special controls) and also codifying in 21 CFR 870.5210 the reclassification of CPR Aid devices with feedback into class II (special controls) and CPR Aid devices without feedback into class I (general controls).

VIII. References

The following references are on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *http://www.regulations.gov.* FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. Field, J.M., M.F. Hazinski, M.R. Sayre, et al., "Part 1: Executive Summary: 2010 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care," *Circulation,* 122:S640–S656, 2010, available at: *http://circ.ahajournals.org/content/122/18_suppl_3.toc.*
2. The Circulatory System Devices Panel of the Medical Devices Advisory Committee Meeting (September 11–12, 2013) transcript, executive summary, and other meeting materials are available on FDA's Web site at *http://www.fda.gov/advisorycommittees/calendar/ucm364767.htm.*

List of Subjects in 21 CFR Part 870

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 870 is amended as follows:

PART 870—CARDIOVASCULAR DEVICES

■ 1. The authority citation for 21 CFR part 870 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Revise § 870.5200 to read as follows:

§ 870.5200 External cardiac compressor.

(a) *Identification.* An external cardiac compressor is an externally applied prescription device that is electrically, pneumatically, or manually powered and is used to compress the chest periodically in the region of the heart to provide blood flow during cardiac arrest. External cardiac compressor devices are used as an adjunct to manual cardiopulmonary resuscitation (CPR) when effective manual CPR is not possible (*e.g.,* during patient transport or extended CPR when fatigue may prohibit the delivery of effective/consistent compressions to the victim, or when insufficient EMS personnel are available to provide effective CPR).

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) Nonclinical performance testing under simulated physiological conditions must demonstrate the reliability of the delivery of specific compression depth and rate over the intended duration of use.

(2) Labeling must include the following:

(i) The clinical training necessary for the safe use of this device;

(ii) Adjunctive use only indication prominently displayed on labels physically placed on the device and in any device manuals or other labeling;

(iii) Information on the patient population for which the device has been demonstrated to be effective (including patient size and/or age limitations, *e.g.,* adult, pediatric and/or infant); and

(iv) Information on the time necessary to deploy the device as demonstrated in the performance testing.

(3) For devices that incorporate electrical components, appropriate analysis and testing must demonstrate that the device is electrically safe and electromagnetically compatible in its intended use environment.

(4) Human factors testing and analysis must validate that the device design and labeling are sufficient for effective use by the intended user, including an evaluation for the time necessary to deploy the device.

(5) For devices containing software, software verification, validation, and hazard analysis must be performed.

(6) Components of the device that come into human contact must be demonstrated to be biocompatible.

■ 3. Add § 870.5210 to subpart F to read as follows:

§ 870.5210 Cardiopulmonary resuscitation (CPR) aid.

(a) *CPR aid without feedback*—(1) *Identification.* A CPR aid without feedback is a device that performs a simple function such as proper hand placement and/or simple prompting for rate and/or timing of compressions/breathing for the professionally trained rescuer, but offers no feedback related to the quality of the CPR being provided. These devices are intended for use by persons professionally trained in CPR to assure proper use and the delivery of optimal CPR to the victim.

(2) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 870.9.

(b) *CPR aid with feedback*—(1) *Identification.* A CPR Aid device with feedback is a device that provides real-time feedback to the rescuer regarding the quality of CPR being delivered to the victim, and provides either audio and/or visual information to encourage the rescuer to continue the consistent application of effective manual CPR in accordance with current accepted CPR guidelines (to include, but not be limited to, parameters such as compression rate, compression depth, ventilation, recoil, instruction for one or multiple rescuers, etc.). These devices may also perform a coaching function to aid rescuers in the sequence of steps necessary to perform effective CPR on a victim.

(2) *Classification.* Class II (special controls). The special controls for this device are:

(i) Nonclinical performance testing under simulated physiological or use conditions must demonstrate the accuracy and reliability of the feedback to the user on specific compression rate, depth and/or respiration over the intended duration, and environment of use.

(ii) Labeling must include the clinical training, if needed, for the safe use of this device and information on the patient population for which the device has been demonstrated to be effective (including patient size and/or age limitations, *e.g.,* adult, pediatric and/or infant).

(iii) For devices that incorporate electrical components, appropriate analysis and testing must demonstrate that the device is electrically safe and electromagnetically compatible in its intended use environment.

(iv) For devices containing software, software verification, validation, and hazard analysis must be performed.

(v) Components of the device that come into human contact must be demonstrated to be biocompatible.

(vi) Human factors testing and analysis must validate that the device design and labeling are sufficient for effective use by the intended user.

(3) *Premarket notification.* The CPR Aid with feedback device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter if it does not contain software (*e.g.,* is mechanical or electromechanical) and is in compliance with the special controls under paragraph (b)(2) of this section, subject to the limitations of exemptions in § 870.9.

Dated: May 20, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–12333 Filed 5–24–16; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2014–0364; A–1–FRL–9939–63–Region 1]

Air Plan Approval; Connecticut; Sulfur Content of Fuel Oil Burned in Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut on April 22, 2014, with supplemental submittals on June 18, 2015 and September 25, 2015. This revision establishes sulfur in fuel oil content limits for use in stationary sources. In addition, the submittal includes a revision to the sampling and emission testing methods for the sulfur content in liquid fuels. The intended effect of this action is to approve these requirements into the Connecticut SIP. This action is being taken under the Clean Air Act.

DATES: This direct final rule will be effective July 25, 2016, unless EPA receives adverse comments by June 24, 2016. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2014–0364 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: arnold.anne@epa.gov.*
3. *Fax:* (617) 918–0047.
4. *Mail:* Docket Identification Number EPA–R01–OAR–2014–0364, Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, (mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are

Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2014–0364. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov,* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

In addition, copies of the state submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency; Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Anne K. McWilliams, Air Quality Planning Unit, U.S. Environmental Protection Agency, New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, telephone (617) 918–1697, facsimile (617) 918–0697, email *mcwilliams.anne@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. Connecticut's SIP Revision
III. EPA's Evaluation of Connecticut's SIP Revision
  a. New Section 22a–174–19b "Fuel Sulfur Content Limitations for Stationary Sources"
  b. Revisions to Section 22a–174–19 "Control of Sulfur Compound Emissions"
  c. Revisions to Section 22a–174–19a "Control of Sulfur Dioxide Emissions From Power Plants and Other Large Stationary Sources of Air Pollution"
  d. Revisions to Section 22a–174–5 (previously codified as Section 19–508–5) "Methods for Sampling, Emission Testing, and Reporting"
IV. Final Action
V. Incorporation by Reference
VI. Statutory and Executive Order Reviews

I. Background and Purpose

In section 169A(a)(1) of the 1977 Amendments to the Clean Air Act (CAA), Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the "prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas [1] which impairment results from manmade air pollution." Congress added section 169B to the CAA in 1990 to address regional haze issues. EPA promulgated a rule to address regional haze on July 1, 1999 (64 FR 35714), the Regional Haze Rule. The Regional Haze Rule revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas.

On July 10, 2014, EPA approved Connecticut's initial Regional Haze plan into the SIP. See 79 FR 39322. Specifically, as part of the approval, EPA approved into the Connecticut SIP Connecticut's legislation to reduce the sulfur in fuel content of home heating oil.[2] [3] EPA also approved Regulations of Connecticut State Agencies (RCSA) Section 22a–174–19a (Sec–19a) "Control of Sulfur Dioxide Emissions from Power Plants and other Large Stationary Sources of Air Pollution" in the July 2014 rulemaking. Sec–19a limits the sulfur in fuel oil content used in any emission unit subject to the provisions of RCSA section 22a–174–22b, the Post-2002 Nitrogen Oxides Budget Program. The emission units regulated by the Post-2002 Nitrogen Oxides Budget Program are baseline electricity generating units, cogeneration units, industrial units, and new electricity generating units.

The Connecticut Department of Energy and Environmental Protection (CT–DEEP) has now submitted a SIP revision concerning the sulfur content of fuel oils burned in stationary sources not subject to Sec–19a. This revision supplements the State's earlier approved Regional Haze plan in that the revision will result in additional reductions of sulfur dioxide (SO_2) emissions (but was not legally required in order for EPA to have earlier approved Connecticut's Regional Haze plan).

II. Connecticut's SIP Revision

On April 22, 2014, CT–DEEP submitted to EPA new RCSA section 22a–174–19b (Sec–19b) "Fuel Sulfur content Limitations for Stationary

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[1] Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977 (42 U.S.C. 7472(a)). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value (44 FR 69122, November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions (42 U.S.C. 7472(a)).

[2] Connecticut General Statute Title 16a–21a effective June 2, 2008 in part limits the sulfur content of number two heating oil to 500 parts per million (ppm) as of the date on which the last of the states of New York, Massachusetts, and Rhode Island made this requirement effective. The fuel sulfur limit became effective in these three states as of July 1, 2014.

[3] Sulfates play a major role in the formation of Regional Haze in the Northeast. (See the Northeast States for Coordinated Air Use Management (NESCAUM) document *Contributions to Regional Haze in the Northeast and Mid-Atlantic United States,* August 2006)

Sources," revisions to SIP-approved RCSA section 22a–174–19 (Sec–19) "Control of Sulfur Compound Emissions," revisions to SIP-approved RCSA section 22a–174–19a "Control of Sulfur Dioxide Emissions from Power Plants and Other Large Stationary Sources of Air Pollution," and RSCA section 19–174–5 "Methods for Sampling, Emission Testing, and Reporting." Supplemental revisions to Sec–19a and Sec–19b were submitted to EPA on June 18, 2015 and September 25, 2015, respectively.

III. EPA's Evaluation of Connecticut's SIP Revision

a. New Section 22a–174–19b "Fuel Sulfur Content Limitations for Stationary Sources"

The new Sec–19b applies to any person who, on or after July 1, 2014, sells, supplies, offers for sale, stores, delivers or exchanges in trade, in the state of Connecticut, any fuel for combustion in a stationary source not subject to Sec-19a and to any person who, on or after July 1, 2014, combusts any fuel in a stationary source (not subject to section Sec–19a within the State of Connecticut.) Under Sec–19b, the sulfur in fuel oil limits, in parts per million (ppm), for affected sources are:

MAXIMUM FUEL SULFUR CONTENT, BY WEIGHT

Fuel type	Effective July 1, 2014 through June 30, 2018	Effective on and after July 1, 2018
Distillate fuel oil or distillate fuel oil blended with biodiesel fuel	500 ppm (0.05%)	15 ppm (0.0015%).
Residual oil or residual oil blended with biodiesel	10,000 ppm (1.0%)	3,000 ppm (0.3%).
Aviation fuel combusted in a stationary source	3,000 ppm (0.3%)	3,000 ppm (0.3%).
Kerosene	400 ppm (0.04%)	15 ppm (0.0015%).

An exemption from the requirements of Sec 19b extends to: (1) Any person combusting fuel in fuel-burning equipment undergoing testing as part of a research and development operation; (2) fuel stored in the state of Connecticut that meets any of the applicable sulfur content limitations at the time it is stored; (3) any fuel stored in Connecticut for shipment, sale or use outside of the State; and (4) to any person who sells, supplies, offers for sale, stores for sale or combusts number two heating oil (home heating oil) subject to the sulfur content limitations of section 16a–21a of the Connecticut General Statutes.

EPA finds that the revised sulfur in fuel limits for stationary sources adopted in Sec–19b are more stringent than the State's current SIP-approved requirements and will aid in the overall reduction of SO_2 emissions from sources not already subject to limits under Sec–19a or of the Connecticut General Statutes. Therefore, EPA is approving Sec–19b.

b. Revisions to Section 22a–174–19 "Control of Sulfur Compound Emissions"

Sec–19 (previously codified as section 19–508–19 of Connecticut's regulations) was approved into the Connecticut SIP on November 18, 1981. See 46 FR 56612. The revisions to Sec–19 included in Connecticut's April 22, 2014 submittal consist of: (1) The removal of Section 22a–174–19(a), "Fuel combustion"; (2) revising the term "sulfur oxides" to "sulfur compound, expressed as sulfur dioxide;" and (3) two other minor edits ("0 85" is revised to "0.85" and "0 77" is revised to "0.77") throughout the remainder of Sec–19. The previously SIP-approved section Sec–19(a) limited the sale, storage, and use of fuel which contains sulfur in excess of a maximum of one percent (1%) by weight. Revised Sec–19 now only applies to sulfuric acid plants, sulfur recovery plants, nonferrous smelters, sulfite pulp mills, and other process sources.

The Clean Air Act (CAA) section 110(*l*) provides that EPA shall not approve any implementation plan revision if it would interfere with any applicable requirement concerning attainment and reasonable progress, or any other applicable requirement of the CAA, *i.e.*, demonstrate anti-backsliding. EPA finds that the requirements of the removed Sec–19(a) "Fuel combustion" are maintained and incorporated in a more stringent manner into the combination of the more stringent revised Sec–19a "Control of Sulfur Dioxide Emissions from Power Plants and Other Large Stationary Sources of Air Pollution" and the new Sec–19b "Fuel Sulfur content Limitations for Stationary Sources." Therefore, the anti-backsliding requirements of section 110(*l*) have been met. In addition, the revision of the term "sulfur oxides" to "sulfur compound, expressed as sulfur dioxide" is consistent with the previous definition of "sulfur oxides" found in the removed Sec–19(a). For all of the reasons above, EPA is approving Connecticut's revised Sec–19.

c. Revisions to Section 22a–174–19a "Control of Sulfur Dioxide Emissions from Power Plants and Other Large Stationary Sources of Air Pollution"

Sec–19a was approved into the Connecticut SIP on July 10, 2014. See 79 FR 39322. The revisions to Sec–19a included in Connecticut's April 22, 2014 submittal consist of: (1) The removal of section Sec–19a(c) sulfur dioxide emission standards and fuel sulfur limits effective on and after January 1, 2002; (2) in Sec–19a(e), the removal of a specified January 1, 2003 effective date; and (3) in Sec–19a(i), the allowance of more recent versions of the American Society for Testing and Materials (ASTM) test method D4294 and automatic sampling equipment conformance to ASTM test method D4177–82 or a more recent version of the same method. Our action to remove two of these Connecticut SIP requirements, and revise the third, is discussed below.

The sulfur in fuel limit (0.5% sulfur, by weight) and emission limit (0.55 pound SO_2 per MMBTU) required on or after January 1, 2002 by the removed Sec–19a(c) have been superseded by the more stringent fuel limits (0.3% sulfur, by weight) and emission limit (0.33 pound SO_2 per MMBtu) required under Sec–19(e) which we are approving into the SIP. Similarly, Sec–19a(e) has been revised to remove the reference to a January 1, 2003 commencement date in relation to sulfur limits that are being removed from the SIP.

Revised Sec–19a(i), which we are approving into the SIP, updates the record keeping requirements to allow the use of more recent versions of approved ASTM test methods and requires the owners and operators of the affected units to maintain all sulfur in fuel records on premises for five years. The previous version dictated that records need not be maintained for distillate oil, motor vehicle fuel, aircraft fuel, or gaseous fuel provided such fuels which had a sulfur content below 0.3% by weight. The version we are approving in this action corrects these omissions.

Connecticut's revised Section 19a removes outdated requirements while maintaining the same level of SO_2 control as the previous SIP-approved version. Therefore, the CAA's Section 110(*l*) anti-backsliding requirement has been met. In addition, EPA finds it appropriate to update the testing and sampling methods to conform to a more recent test method. EPA also finds it appropriate for the above-referenced records to be maintained. Therefore, EPA is approving Connecticut's revised Sec–19a.

d. Revisions to Section 22a–174–5 "Methods for Sampling, Emission Testing, and Reporting"

Section 22a–174–5 (previously codified as Section 19–508–5 of Connecticut's regulations) was approved into the Connecticut SIP on August 28, 1981. See 46 FR 43418. Section 22a–174–5(b)(1) was subsequently revised by Connecticut to allow analysis for the sulfur content of liquid fuels to be done according to the American Society for Testing and Materials method D7039. EPA is approving the minor revision to Section 22a–174–5(b)(1) because EPA concurs that it should be an allowable method of analysis.

IV. Final Action

EPA is approving, and incorporating into the Connecticut SIP, the Regulations of Connecticut State Agencies Section 22a–174–19 (as amended and described in Section III.b., above), Section 22a–174–19a(e), Section 22a–174–19a(i), Section 22a–174–19b, and Section 22a–174–5(b)(1), all as published in the Connecticut Law Journal on June 24, 2014. EPA is also removing, without replacement, Section 22a–19a(c), which was previously approved into the SIP. See 40 CFR Section 52.370 (c)(103)(i)(A)(1).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective July 25, 2016 without further notice unless the Agency receives relevant adverse comments by June 24, 2016.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 25, 2016 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Regulations of Connecticut State Agencies described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Regional haze, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 5, 2015.

H. Curtis Spalding,

Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart H—Connecticut

■ 2. Section 52.370 is amended by redesignating paragraph (c)(103)(i)(A)(*2*) as (c)(103)(i)(A)(*3*), adding a new paragraph (c)(103)(i)(A)(*2*), and adding paragraph (c)(111) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(103) * * *

(i) * * *

(A) * * *

(*2*) Section 22a–174–19a(c) which was approved in paragraph (c)(103)(i)(A)(1), is removed without replacement; see paragraph (c)(111)(i)(B).

* * * * *

(111) Revisions to the State Implementation Plan submitted by the Connecticut Department of Energy and Environmental Protection on April 22, 2014.

(i) Incorporation by reference.

(A) Amendments to Regulations of Connecticut State Agencies (RCSA) as published in the Connecticut Law Journal on June 24, 2014, effective April 15, 2014.

(*1*) Revised Section 22a–174–19.

(*2*) Revised Section 22a–174–19a(e).

(*3*) Revised Section 22a–174–19a(i).

(*4*) Section 22a–174–19b with the exception of subsection (e), which was not submitted by the State.

(*5*) Revised Section 22a–174–5(b)(1).

(B) RCSA Section 22a–174–19a(c) which was approved in paragraph (c)(103)(i)(A)(1), is removed without replacement.

(ii) Additional materials. [Reserved]

■ 3. In § 52.385, Table 52.385 is amended by adding a new entry for state citation 22a–174–5; adding a new entry for state citation 22a–174–19; revising the entry for 22a–174–19a; and adding an entry for state citation 22a–174–19b in numerical order to read as follows:

§ 52.385 EPA-approved Connecticut regulations.

* * * * *

TABLE 52.385—EPA-APPROVED REGULATIONS

Connecticut state citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by state	Date approved by EPA			
*	*	*	*	*		* *
22a–174–5	Methods for sampling, emission testing, sample analysis and reporting	4/15/14	5/25/16	[Insert ***Federal Register*** citation]	(c)(111)	Revision to section 22a–174–5(b)(1).
*	*	*	*	*		* *
22a–174–19	Control of Sulfur Compound Emissions.	4/15/14	5/25/16	[Insert ***Federal Register*** citation].	(c)(111)	Revises section 22a–174–19.
*	*	*	*	*		* *
22a–174–19a	Control of sulfur dioxide emissions from power plants and other large stationary sources of air pollution.	12/28/00	7/10/14	79 FR 39322	(c)(103)	Approves the sulfur dioxide emission standards and fuel sulfur limits for units subject to the CT NO_X Budget program. The following sections were not submitted as part of the SIP: Sections (a)(5); (a)(8); (a)(11); (d); (e)(4); (f); (g); (h); and in (i)(2) reference to (e)(4). Section 22a–174–19a(c) was repealed by the State of Connecticut effective April 15, 2014 and removed from the SIP without replacement effective May 25, 2016.
22a–174–19a	Control of sulfur dioxide emissions from power plants and other stationary sources of air pollution.	4/15/14	5/25/16	[Insert ***Federal Register*** citation].	(c)(111)	Withdraws section 22a–174–19a(c) previously approved in paragraph 52.370(c)(103) and revises sections 22a–174–19a(e) and 22a–174–19a(i).
22a–174–19b	Fuel Sulfur Content Limitations for Stationary Sources.	4/15/14	5/25/16	[Insert ***Federal Register*** citation].	(c)(111)	Addition of a new regulation with the exception of subsection (e) which was not submitted by the State.
*	*	*	*	*		* *

[FR Doc. 2016–12120 Filed 5–24–16; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2015–0798; FRL–9946–77–Region 4]

Air Plan Disapprovals; MS; Prong 4–2008 Ozone, 2010 NO_2, SO_2, and 2012 $PM_{2.5}$

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to disapprove the visibility transport (prong 4) portions of revisions to the Mississippi State Implementation Plan (SIP), submitted by the Mississippi Department of Environmental Quality (MDEQ), addressing the Clean Air Act (CAA or Act) infrastructure SIP requirements for the 2008 8-hour Ozone, 2010 1-hour Nitrogen Dioxide (NO_2), 2010 1-hour Sulfur Dioxide (SO_2), and 2012 annual Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, commonly referred to as an "infrastructure SIP." Specifically, EPA is disapproving the prong 4 portions of Mississippi's May 29, 2012; July 26, 2012; February 28, 2013; June 20, 2013; and December 8, 2015, infrastructure SIP submissions. All other applicable infrastructure requirements for these SIP submissions have been or will be addressed in separate rulemakings.

DATES: This rule will be effective June 24, 2016.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2015–0798. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Lakeman can be reached by telephone at (404) 562–9043 or via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) of the CAA are to be submitted by states within three years after promulgation of a new or revised NAAQS to provide for the implementation, maintenance, and enforcement of the new or revised NAAQS. EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of sections 110(a)(1) and 110(a)(2) as "infrastructure SIP" submissions. Sections 110(a)(1) and (2) require states to address basic SIP elements such as the requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the newly established or revised NAAQS. More specifically, section 110(a)(1) provides the procedural and timing requirements for infrastructure SIPs. Section 110(a)(2) lists specific elements that states must meet for the infrastructure SIP requirements related to a newly established or revised NAAQS. The contents of an infrastructure SIP submission may vary depending upon the data and analytical tools available to the state, as well as the provisions already contained in the state's implementation plan at the time in which the state develops and submits the submission for a new or revised NAAQS.

Section 110(a)(2)(D) has two components: 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as "prongs," that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (prong 1) and from interfering with maintenance of the NAAQS in another state (prong 2). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (prong 3) or from interfering with measures to protect visibility in another state (prong 4). Section 110(a)(2)(D)(ii) requires SIPs to include provisions insuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement.

In a notice of proposed rulemaking (NPRM) published on March 22, 2016 (81 FR 15205), EPA proposed to disapprove the prong 4 portions of Mississippi's infrastructure SIP submissions for the 2008 8-hour Ozone, 2010 1-hour NO_2, 2010 1-hour SO_2, and 2012 annual $PM_{2.5}$ NAAQS. The details of Mississippi's submissions and the rationale for EPA's actions are explained in the NPRM. Comments on the proposed rulemaking were due on or before April 21, 2016. EPA received no comments on the NPRM.

II. Final Action

EPA is taking final action to disapprove the prong 4 portions of Mississippi's May 29, 2012, 2008 8-hour Ozone infrastructure SIP submission; July 26, 2012, 2008 8-hour Ozone infrastructure SIP resubmission; February 28, 2013, 2010 1-hour NO_2 infrastructure SIP submission; June 20, 2013, 2010 1-hour SO_2 infrastructure SIP submission; and December 8, 2015, 2012 annual $PM_{2.5}$ infrastructure SIP submission. All other outstanding applicable infrastructure requirements for these SIP submissions have been or will be addressed in separate rulemakings.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action disapproves the prong 4 portions of the aforementioned SIP submissions as not meeting Federal requirements. Therefore, this action does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 25, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 12, 2016.

Heather McTeer Toney,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Z—Mississippi

■ 2. Section 52.1279 is amended by adding paragraph (b) to read as follows:

§ 52.1279 Visibility protection.

* * * * *

(b) *Disapproval.* EPA has disapproved the portions of Mississippi's May 29, 2012, 2008 8-hour Ozone infrastructure SIP submission; July 26, 2012, 2008 8-hour Ozone infrastructure SIP resubmission; February 28, 2013, 2010, 1-hour NO_2 infrastructure SIP submission; June 20, 2013, 2010 1-hour SO_2 infrastructure SIP submission; and December 8, 2015, 2012, Annual $PM_{2.5}$ infrastructure SIP submission that address the visibility protection (prong 4) requirements of Clean Air Act section 110(a)(2)(D)(i)(II). EPA disapproved the prong 4 portions of these SIP submissions because Mississippi does not have a fully approved regional haze SIP that meets the requirements of 40 CFR 51.308 and because these SIP submissions do not otherwise demonstrate that emissions within the State do not interfere with other states' plans to protect visibility.

[FR Doc. 2016–12114 Filed 5–24–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 25, 73, and 76

[MB Docket No. 14–127; FCC 16–4]

Expanded Online Public Inspection File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's *Report and Order,* Expansion of Online Public File Obligations To Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees. This document is consistent with the *Report and Order,* which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the rules.

DATES: The amendments to 47 CFR 25.701(d), (d)(2), (d)(3), (e)(3), and (f)(6), 25.702, 73.1943(d), 73.3526(b)(1) through (3), 73.3527(b)(1) and (2), 76.630, 76.1700, and 76.1702(a), published at 81 FR 10105, February 29, 2016, are effective June 24, 2016.

FOR FURTHER INFORMATION CONTACT: For additional information contact Cathy Williams, *Cathy.Williams@fcc.gov,* (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on May 4, 2016, OMB approved the information collection requirements contained in the Commission's *Report and Order,* FCC 16–4, published at 81 FR 10105, February 29, 2016. The OMB Control Numbers are 3060–1207, 3060–0214, and 3060–0316. The Commission publishes this notice as an announcement of the effective date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Numbers, 3060–1207, 3060–0214, and 3060–0316, in your correspondence. The Commission will also accept your comments via the Internet if you send them to *PRA@fcc.gov*. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on May 4, 2016, for the new information collection requirements contained in the Commission's rules at 47 CFR 25.701(d), (d)(2), (d)(3), (e)(3) and (f)(6), 25.702, 73.1943(d), 73.3526(b)(1)–(3), 73.3527(b)(1) and (2), 76.630, 76.1700 and 76.1702(a). Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers are 3060–1207, 3060–0214, and 3060–0316.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1207.

OMB Approval Date: May 4, 2016.

OMB Expiration Date: May 31, 2019.

Title: Section 25.701, Other DBS Public Interest Obligations, and 25.702, Other SDARS Public Interest Obligations.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 3 respondents; 3 responses.

Estimated Time per Response: 18 hours.

Frequency of Response: Recordkeeping requirement; on occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in Sections 154, 301, 302, 303, 307, 309, 319, 332, 605, and 721 of the Communications Act of 1934, as amended.

Total Annual Burden: 54 hours.

Total Annual Cost: $592.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: The Commission prepared a system of records notice (SORN), FCC/MB–2, "Broadcast Station Public Inspection Files," that covers the PII contained in the broadcast station public inspection files located on the Commission's Web site. The Commission will revise appropriate privacy requirements as necessary to include any entities and information added to the online public file in this proceeding.

Needs and Uses: In 2012, the Commission replaced the decades-old requirement that commercial and noncommercial television stations maintain public files at their main studios with a requirement to post most of the documents in those files to a central, online public file hosted by the Commission. On January 28, 2016, the Commission adopted a Report and Order ("R&O") in MB Docket No. 14–127, FCC 16–4, In the Matter of Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees, expanding the requirement that public inspection files be posted to the FCC-hosted online public file database to satellite TV (also referred to as "Direct Broadcast Satellite" or "DBS") providers and to satellite radio (also referred to as "satellite Digital Audio Radio Services" or "SDARS") licensees, among other entities. The Commission stated that its goal is to make information that these entities are already required to make publicly available more accessible while also reducing costs both for the government and the public sector. The Commission took the same general approach to transitioning these entities to the online file that it took with television broadcasters in 2012, tailoring the requirements as necessary to the different services. The Commission also took similar measures to minimize the effort and cost entities must undertake to move their public files online. Specifically, the Commission required entities to upload to the online public file only documents that are not already on file with the Commission or that the Commission maintains in its own database. The Commission also exempted existing political file material from the online file requirement and required that political file documents be uploaded only on a going-forward basis.

The Commission first adopted a public inspection file requirement for broadcasters more than 40 years ago. The public file requirement grew out of Congress' 1960 amendment of Sections 309 and 311 of the Communications Act of 1934. Finding that Congress, in enacting these provisions, was guarding "the right of the general public to be informed, not merely the rights of those who have special interests," the Commission adopted the public inspection file requirement to "make information to which the public already has a right more readily available, so that the public will be encouraged to play a more active part in dialogue with broadcast licensees." The information provided in the public file enables citizens to engage in an informed dialog with their local video provider or to file complaints regarding provider operations. Satellite TV (also known as "Direct Broadcast Satellite" or "DBS") providers and satellite radio (also referred to as "Satellite Digital Audio Radio Services" or "SDARS") licensees have public and political file requirements modeled, in large part, on the longstanding broadcast requirements. With respect to DBS providers, the Commission adopted public and political inspection file requirements in 1998 in conjunction with the imposition of certain public interest obligations, including political broadcasting requirements, on those entities. DBS providers were required to "abide by political file obligations similar to those requirements placed on terrestrial broadcasters and cable systems" and were also required to maintain a public file with records relating to other DBS public interest obligations. The Commission imposed equal employment opportunity and political broadcast requirements on SDARS licensees in 1997, noting that the rationale behind imposing these requirements on broadcasters also applies to satellite radio.

47 CFR 25.701(d) requires each DBS provider to keep and permit public inspection of a complete and orderly record (political file) of all requests for DBS origination time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the provider of such requests, and the charges made, if any, if the request is granted. The disposition includes the schedule of time purchased, when the spots actually aired, the rates charged, and the classes of time purchased. Also,

when free time is provided for use by or on behalf of candidates, a record of the free time provided is to be placed in the political file. All records required to be retained by this section must be placed in the political file as soon as possible and retained for a period of two years. DBS providers must make available, by fax, email, or by mail upon telephone request, copies of documents in their political files and assist callers by answering questions about the contents of their political files. If a requester prefers access by mail, the DBS provider must pay for postage but may require individuals requesting documents to pay for photocopying. If a DBS provider places its political file on its Web site, it may refer the public to the Web site in lieu of mailing copies.

Any material required to be maintained in the political file must be made available to the public by either mailing or Web site access or both.

The R&O changes 47 CFR 25.701(d) to require DBS providers to place all new political file material required to be retained by this section in the online file hosted by the Commission. The R&O also eliminates the requirement that DBS providers honor requests by telephone for copies of political file materials if those materials are made available online.

47 CFR 25.701(f)(6) requires each DBS provider to maintain a public file containing a complete and orderly record of quarterly measurements of: Channel capacity and yearly average calculations on which it bases its four percent reservation, as well as its responses to any capacity changes; a record of entities to whom noncommercial capacity is being provided, the amount of capacity being provided to each entity, the conditions under which it is being provided and the rates, if any, being paid by the entity; and a record of entities that have requested capacity, disposition of those requests and reasons for the disposition. All records required by this provision must be placed in a file available to the public as soon as possible and be retained for a period of two years.

The R&O changes 47 CFR 25.701(f)(6) to require DBS providers to place all public file material required to be retained by this section in the online file hosted by the Commission. The R&O also requires that each DBS provider place in the online file the records required to be placed in the public inspection file by 47 CFR 25.701(e)(commercial limits in children's programs) and by 47 CFR 25.601 and Part 76, Subpart E (equal employment opportunity requirements) and retain those records for the period required by those rules. In addition, the R&O requires each DBS provider to provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the provider has a Web site, and provide on its Web site contact information for a representative who can assist any person with disabilities with issues related to the content of the public files. Each DBS provider is also required to include in the online public file the name, phone number, and email address of the licensee's designated contact for questions about the public file. In addition, each DBS provider must place the address of the provider's local public file in the Commission's online file unless the provider has fully transitioned to the FCC's online public file (*e.g.*, posts to the FCC's online file database all public and political file material required to be maintained in the public inspection file) and also provides online access via the provider's own Web site to back-up political file material in the event the online file becomes temporarily unavailable.

47 CFR 25.702. The R&O adds this new rule. New 47 CFR 25.702(b) requires each SDARS licensee to maintain a complete and orderly record (political file) of all requests for SDARS origination time made by or on behalf of candidates for public office, together with the disposition made by the provider of such requests, and the charges made, if any, if the request is granted. The disposition must include the schedule of time purchased, when the spots actually aired, the rates charged, and the classes of time purchased. Also, when free time is provided for use by or on behalf of candidates, a record of the free time provided is to be placed in the political file. SDARS licensees are required to place all records required by this section in the political file as soon as possible and retain the record for a period of two years.

New 47 CFR 25.702(c) requires each SDARS applicant or licensee to place in the online file hosted by the Commission the records required to be placed in the public inspection file by 47 CFR 25.601 and 73.2080 (equal employment opportunities) and to retain those records for the period required by those rules. Each SDARS licensee must provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the licensee has a Web site, and provide on its Web site contact information for a representative who can assist any person with disabilities with issues related to the content of the public files. Each SDARS licensee is also required to include in the online public file the name, phone number, and email address of the licensee's designated contact for questions about the public file. In addition, each SDARS licensee must place the address of the provider's local public file in the Commission's online file unless the provider has fully transitioned to the FCC's online public file (*i.e.*, posts to the Commission's online public file all public and political file material required to be maintained in the public inspection file) and also provides online access via the licensee's own Web site to back-up political file material in the event the online file becomes temporarily unavailable.

OMB Control Number: 3060–0214.

OMB Approval Date: May 4, 2016.

OMB Expiration Date: May 31, 2019.

Title: Sections 73.3526 and 73.3527, Local Public Inspection File, Sections 73.1212, 76.1701 and 73.1943, Political Files.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, Local or Tribal government; Individuals or households.

Number of Respondents and Responses: 24,962 respondents; 64,374 responses.

Estimated Time per Response: 1–52 hours.

Frequency of Response: Recordkeeping requirement; on occasion reporting requirements; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 151, 152, 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,093,149 hours.

Total Annual Cost: $3,653,372.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: The Commission prepared a system of records notice (SORN), FCC/MB–2, "Broadcast Station Public Inspection Files," that covers the PII contained in the broadcast station public inspection files located on the Commission's Web site. The Commission will revise appropriate privacy requirements as necessary to include any entities and information added to the online public file in this proceeding.

Needs and Uses: In 2012, the Commission replaced the decades-old requirement that commercial and noncommercial television stations maintain public files at their main studios with a requirement to post most of the documents in those files to a central, online public file hosted by the Commission. On January 28, 2016, the Commission adopted a Report and Order ("R&O") in MB Docket No. 14–127, FCC 16–4, In the Matter of Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees. The R&O expands the requirement that public inspection files be posted to an FCC-hosted online public file database to cable operators, satellite TV (also referred to as "Direct Broadcast Satellite" or "DBS") providers, broadcast radio licensees, and satellite radio (also referred to as "Satellite Digital Audio Radio Services" or "SDARS") licensees. The Commission stated that its goal is to make information that these entities are already required to make publicly available more accessible while also reducing costs both for the government and the public sector. The Commission took the same general approach to transitioning these entities to the online file that it took with television broadcasters in 2012, tailoring the requirements as necessary to the different services. The Commission also took similar measures to minimize the effort and cost entities must undertake to move their public files online. Specifically, the Commission required entities to upload to the online public file only documents that are not already on file with the Commission or that the Commission maintains in its own database. The Commission also exempted existing political file material from the online file requirement and required that political file documents be uploaded only on a going-forward basis.

With respect to broadcast radio licensees, the Commission commenced the transition to an online file with commercial stations in larger markets with five or more full-time employees, while postponing temporarily all online file requirements for other radio stations. The R&O also requires stations to provide information to the online file regarding the location of the station's main studio.

With respect to cable operator public file requirements, the R&O phased-in the requirement to commence uploading political file documents to the online file for smaller cable systems and exempted cable systems with fewer than 1,000 subscribers from all online public file requirements.

OMB Control Number: 3060–0316.

OMB Approval Date: May 4, 2016.

OMB Expiration Date: May 31, 2019.

Title: 47 CFR Sections 76.1700, Records to be maintained locally by Cable System Operators; 76.1702, Equal Employment Opportunity; 76.1703, Commercial Records on Children's Programs; 76.1707, Leased Access; 76.1711, Emergency Alert System (EAS) Tests and Activation.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 3,000 respondents; 3,000 responses.

Estimated Time per Response: 18 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, and 573 of the Communications Act of 1934, as amended.

Total Annual Burden: 54,000 hours.

Total Annual Cost: $591,840.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: The Commission prepared a system of records notice (SORN), FCC/MB–2, "Broadcast Station Public Inspection Files," that covers the PII contained in the broadcast station public inspection files located on the Commission's Web site. The Commission will revise appropriate privacy requirements as necessary to include any entities and information added to the online public file in this proceeding.

Needs and Uses: The Commission revised this collection to reflect the Commission's adoption of a Report and Order ("R&O") in MB Docket No. 14–127, FCC 16–4, In the Matter of Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees, adopted on January 28, 2016. The R&O revised 47 CFR Sections 76.1700 and 76.1702(a).

The R&O expands to cable operators the requirement that public inspection files be posted to an FCC-hosted online public file database. The Commission stated that its goal is to make information that these entities are already required to make publicly available more accessible while also reducing costs both for the government and the public sector. The Commission took the same general approach to transitioning cable operators to the online file that it took with television broadcasters in 2012, tailoring the requirements as necessary to the different services. The Commission also took similar measures to minimize the effort and cost entities must undertake to move their public files online. Specifically, the Commission required cable operators to upload to the online public file only documents that are not already on file with the Commission or that the Commission maintains in its own database. The Commission also exempted existing political file material from the online file requirement and required that political file documents be uploaded only on a going-forward basis.

Section 76.1700 addresses the records to be maintained by cable system operators. The R&O revised Section 76.1700 to require that cable operators maintain their public inspection file online on the Web site hosted by the FCC. In addition, the Commission reorganized Section 76.1700 to more clearly address which records must be maintained in the public inspection file versus those that must be made available to the Commission or franchising authority upon request. Among other changes, the Commission clarified that proof-of-performance test data and signal leakage logs and repair data must be made available only to the Commission and, in the case of proof-of-performance test data, also to the franchisor, and not to the public. Accordingly, this information is not required to be included in the public inspection file or in the online public inspection file.

The Commission phased-in the requirement to commence uploading political file documents to the online file for smaller cable systems and exempted cable systems with fewer than 1,000 subscribers from all online public file requirements. The R&O also made several minor additional changes to the existing cable public file requirements—it requires operators, when first establishing their online public file, to provide a list of the zip codes served by the system and requires them to identify the employment unit(s) associated with the system. The R&O also requires cable systems to provide the contact information for their local file. In addition, each cable system must place the address of its local public file in the Commission's online file unless the system has fully transitioned to the FCC's online public file (*i.e.,* posts to the Commission's online public file all public and political file material required to be maintained in the public inspection file) and also provides online access via the system's own Web site to back-up political file material in the event the online file becomes temporarily unavailable.

Apart from these minor exceptions, the R&O does not adopt new or modified public inspection file requirements. The Commission's goal was simply to adapt the existing cable public file requirements to an online format.

47 CFR 76.1700 requires cable system operators to place the public inspection file materials required to be retained by the following rules in the online public file hosted by the Commission, with the exception of existing political file material which cable systems may continue to retain in their local public file until the end of the retention period: 76.1701 (political file), 76.1702 (EEO), 76.1703 (commercial records for children's programming), 76.1705 (performance tests—channels delivered); 76.1707 (leased access); and 76.1709 (availability of signals), 76.1710 (operator interests in video programming), 76.1715 (sponsorship identification), and 76.630 (compatibility with consumer electronics equipment). Cable systems with fewer than 5,000 subscribers may continue to retain their political file locally and are not required to upload new political file material to the online public file until March 1, 2018. In addition, cable systems may elect to retain the material required by 76.1708 (principal headend) locally rather than placing this material in the online public file.

47 CFR 76.1700(b) requires cable system operators to make the records required to be retained by the following rules available to local franchising authorities: 76.1704 (proof-of-performance test data) and 76.1713 (complaint resolution).

47 CFR 76.1700(c) requires cable system operators to make the records required to be retained by the following rules available to the Commission: 76.1704 (proof-of-performance test data), 76.1706 (signal leakage logs and repair records), 76.1711 (emergency alert system and activations), 76.1713 (complaint resolution), and 76.1716 (subscriber records).

47 CFR 76.1700(d) exempts cable television systems having fewer than 1,000 subscribers from the online public file and the public inspection requirements contained in 47 CFR 76.1701 (political file); 76.1702 (equal employment opportunity); 76.1703 (commercial records for children's programming); 76.1704 (proof-of-performance test data); 76.1706 (signal leakage logs and repair records); and 76.1715 (sponsorship identifications).

47 CFR 76.1700(e) requires that public file material that continues to be retained at the system be retained in a public inspection file maintained at the office which the system operator maintains for the ordinary collection of subscriber charges, resolution of subscriber complaints, and other business or at any accessible place in the community served by the system unit(s) (such as a public registry for documents or an attorney's office). Public files must be available for public inspection during regular business hours.

47 CFR 76.1700(f) requires cable systems to provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the system has a Web site, and provide contact information on its Web site for a system representative who can assist any person with disabilities with issues related to the content of the public files. A system also is required to include in the online public file the address of the system's local public file, if the system retains documents in the local file that are not available in the Commission's online file, and the name, phone number, and email address of the system's designated contact for questions about the public file. In addition, a system must provide on the online public file a list of the five digit ZIP codes served by the system.

47 CFR 76.1700(g) requires that cable operators make any material in the public inspection file that is not also available in the Commission's online file available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies must be fulfilled at a location specified by the system operator, within a reasonable period of time, which in no event shall be longer than seven days. The system operator is not required to honor requests made by mail but may do so if it chooses.

47 CFR 76.1702(a) requires that every employment unit with six or more full-time employees shall maintain for public inspection a file containing copies of all EEO program annual reports filed with the Commission and the equal employment opportunity program information described in 47 CFR 76.1702(b). These materials shall be placed in the Commission's online public inspection file for each cable system associated with the employment unit. These materials must be placed in the Commission's online public inspection file annually by the date that the unit's EEO program annual report is due to be filed and shall be retained for a period of five years. A headquarters employment unit file and a file containing a consolidated set of all documents pertaining to the other employment units of a multichannel video programming distributor that operates multiple units shall be maintained in the Commission's online public file for every cable system associated with the headquarters employment unit.

Special note—The information collection requirements contained in 47 CFR 76.630 was approved by the OMB on March 21, 2016 under a non-substantive change submission. The OMB control number is 3060–0667.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2016–11693 Filed 5–24–16; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No FMCSA–2015–0372]

49 CFR Part 372

RIN 2126–AB86

Commercial Zones at International Border With Mexico

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: FMCSA finalizes the interim final rule (IFR) published on February 24, 2016, in the **Federal Register** expanding the commercial zone for the City of El Paso, TX. The commercial zone now includes the new Tornillo-Guadalupe international bridge and port of entry on the border with Mexico. The Agency sought, but did not receive, public comments regarding what should constitute the eastern boundary of FMCSA's commercial zone for the City of El Paso, TX. Therefore, FMCSA is adopting the commercial zone as defined in the February 24, 2016, IFR.

DATES: Effective May 25, 2016.

FOR FURTHER INFORMATION CONTACT: Bryan Price, Chief, North American Borders Division, FMCSA, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Telephone (202) 680–4831; email *bryan.price@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Legal Basis

The statutes authorizing FMCSA to regulate certain economic activities of motor carriers provide for several exemptions. One of them, the "commercial zone" exemption, now set out in 49 U.S.C. 13506(b)(1), provides that, except to the extent FMCSA finds it necessary to exercise jurisdiction to carry out the transportation policy of 49 U.S.C. 13101, FMCSA has no jurisdiction under 49 U.S.C. subtitle IV, part B[1] over transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of, the municipality or municipalities, except when the transportation is under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the municipality, municipalities, or zone. The statute does not specify the geographic limits of a commercial zone. From the outset commercial zone limits have usually been established by agency rulemaking under authority provided by 49 U.S.C. 13301(a). Authority to administer the provisions of 49 U.S.C. 13506 has been delegated by the Secretary to the Administrator of FMCSA. 49 CFR 1.87(a)(3).

The interim final rule establishing the expanded commercial zone for the City of El Paso was made effective on February 24, 2016, the date of publication in the **Federal Register**. This final rule confirms the exemption granted by the IFR and is effective upon publication. 5 U.S.C. 553(d)(1).

Background

A history of the expansion of the City of El Paso's commercial zone may be found in the February 24, 2016, IFR (81 FR 9117). In that IFR, FMCSA established a commercial zone for the City of El Paso that includes the new border crossing, which, unlike the old border crossing, is being used by motor carriers of both property and passengers. The expanded commercial zone includes the intersection of Interstate 10 with O.T. Smith Road and Texas Farm-to-Market Road 3380 so that motor carriers that have authority from FMCSA to operate only within the El Paso commercial zone may use the new international bridge and will be able to drive to and from the intersection of Interstate 10 and O.T. Smith Road/Farm-to-Market Road 3380.

The specific description of the commercial zone for the City of El Paso set out in 49 CFR 372.247, published at 81 FR 9117, includes all of the area previously within the commercial zone under the general rule in 49 CFR 372.241. It added a provision expanding the zone to include all unincorporated areas within 15 miles of the corporate boundaries of the City of San Elizario, TX. The February 24, 2016, IFR's expansion of the commercial zone[2] added 84 square miles to the previous El Paso commercial zone.

FMCSA also sought public comment on whether the boundary of the expanded commercial zone should instead be the eastern boundary[3] of the County of El Paso. No public comments, however, were received concerning either of the proposed commercial zones. FMCSA is therefore adopting as final the commercial zone set out in 49 CFR 372.247.

Rulemaking Analyses

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866, as supplemented by Executive Order 13563 (76 FR 3821, Jan. 18, 2011), or within the meaning of the DOT regulatory policies and procedures (44 FR 1103, Feb. 26, 1979). Thus, the Office of Management and Budget (OMB) did not review this document. The final rule has no costs, as it exempts motor carriers from obtaining FMCSA operating authority when they operate in interstate or foreign commerce wholly within the El Paso, Texas commercial zone as defined by 49 CFR 372.247; therefore, a full regulatory evaluation is unnecessary.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612), FMCSA is not required to complete a regulatory flexibility analysis, because this action is not subject to notice and comment under section 553(b) of the Administrative Procedure Act.[4]

Unfunded Mandates Reform Act

The final rule does not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, *et seq.*), that will result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $155 million (which is the value of $100 million in 1995 dollars after adjusting for inflation to 2014 dollars) or more in any 1 year.

E.O. 13132 (Federalism)

A rule has implications for Federalism under section 1(a) of Executive Order 13132 if it has "substantial direct effects on the States, on the relationship between national government and the States, or on the distribution of power and responsibilities among various levels of government." FMCSA has determined that this rule will not have substantial direct effects on States, nor will it limit the policymaking discretion of States. Nothing in this document preempts or modifies any provision of State law or regulation, imposes substantial direct unreimbursed compliance costs on any State, or diminishes the power of any State to enforce its own laws. Accordingly, the final rule does not have Federalism implications warranting the application of E.O. 13132.

E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this final rule.

Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175 titled, "Consultation and Coordination with Indian Tribal Governments," because they would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

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[1] This commercial zone exemption thus applies only to commercial regulations applicable to motor carriers, such as the requirements for operating authority set out in 49 U.S.C. 13901–13904 and 49 CFR parts 365 and 390. Mexico-domiciled motor carriers operating in commercial zones at the international border are required to obtain certificates of registration under 49 U.S.C. 13902(c) and 49 CFR part 368. At one time, motor carrier operations in commercial zones were exempt from most safety regulations, but since 1989, such operations have been subject to all of the Federal Motor Carrier Safety Regulations, with the exception of a small, grandfathered population of medically unqualified drivers who were operating in commercial zones between November 1987 and November 1988. 49 U.S.C. 31136(f), Federal Motor Carrier Safety Regulations; General, 53 FR 18042, 18044–49 (May 19, 1988) and Federal Motor Carrier Safety Regulations; General; Exempt Intracity Zone; Foreign Motor Carriers, 54 FR 12200 (Mar. 24, 1989).

[2] A map depicting the expanded commercial zone under the EA's alternative 2 is included in the final EA's Appendix A as Figure 2.

[3] A map depicting the expanded commercial zone under the EA's alternative 3 is included in the final EA as Figure 3.

[4] 5 U.S.C 553(b).

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. FMCSA determined that no new information collection requirements are associated with this final rule, nor are there any revisions to existing, approved collections of information.

National Environmental Policy Act and Clean Air Act

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) requires Federal agencies to integrate environmental values into their decision-making processes by requiring Federal agencies to consider the potential environmental impacts of their proposed actions. In accordance with FMCSA's Order 5610.1, NEPA Implementing Procedures and Policy for Considering Environmental Impacts, and other applicable requirements, FMCSA prepared an Environmental Assessment (EA) to analyze the potential impacts of the IFR for the expansion of the City of El Paso, TX, commercial zone. FMCSA published a notice of availability of the draft EA, giving the public an opportunity to comment on it, on January 15, 2016 (81 FR 2291). FMCSA also published the IFR, giving the public an opportunity to comment on it, the final EA, and the Finding of No Significant Impact (FONSI), on February 24, 2016 (81 FR 9117). The final EA and FONSI are available for inspection or copying in the *Regulations.gov* Web site at *http://www.regulations.gov.* No comments were received by the end of both comment periods. Because the implementation of this action will only expand an existing commercial zone, FMCSA found that endangered species, cultural resources protected under the National Historic Preservation Act, wetlands, and resources protected under Section 4(f) of the DOT Act of 1966, 49 U.S.C. 303, as amended by Public Law 109–59 (Aug. 10, 2005), are not impacted. The impact areas that may be affected and were evaluated in this EA included air quality, noise, socioeconomics, environmental justice, public health and safety, and hazardous materials. FMCSA anticipates that making final the expanded El Paso commercial zone will have certain impacts related principally to air emissions and land use from economic growth; however, neither of these factors individually or collectively will cause significant impacts. In addition, the economic impact will have beneficial impacts to the quality of life in terms of job creation.

FMCSA also analyzed this final rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7506(c)), and implementing regulations promulgated by the Environmental Protection Agency. None of the alternatives considered in the final EA is located in a nonattainment or maintenance area for any of the criteria pollutants; therefore, FMCSA has determined that it is not required to perform a CAA general conformity analysis.

E.O. 12898 (Environmental Justice)

E.O. 12898 (59 FR 7629, Feb. 16, 1994), Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, establishes Federal executive policy on environmental justice. The E.O.'s main provision directs Federal agencies to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. FMCSA evaluated the environmental effects of this final rule in accordance with E.O. 12898 and determined that there are no environmental justice issues associated with its provisions, nor any collective environmental impact resulting from its promulgation. None of the alternatives analyzed in the EA will result in high and adverse environmental impacts on minority or low-income populations.

E.O. 13211 (Energy Effects)

FMCSA has analyzed this final rule under Executive Order 13211, titled "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." The Agency has determined that the rule(s) are not a "significant energy action" under that Executive Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, no Statement of Energy Effects is required.

E.O. 13045 (Protection of Children)

Executive Order 13045 titled, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, Apr. 23, 1997), requires agencies issuing "economically significant" rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. As discussed previously, the final rule is not economically significant. Therefore, no analysis of the impacts on children is required.

E.O. 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988 titled, "Civil Justice Reform," to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 12630 (Taking of Private Property)

This final rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630 titled, "Governmental Actions and Interference with Constitutionally Protected Property Rights."

National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) requires Federal agencies proposing to adopt technical standards to consider whether voluntary consensus standards are available. If the Agency chooses to adopt its own standards in place of existing voluntary consensus standards, it must explain its decision in a separate statement to OMB. Because FMCSA does not intend to adopt technical standards, there is no need to submit a separate statement to OMB on this matter.

Privacy Impact Assessment

Section 522(a)(5) of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Pub. L. 108–447, Division H, Title I, 118 Stat. 2809 at 3268, Dec. 8, 2004) requires DOT and certain other Federal agencies to conduct a privacy impact assessment of each rule that will affect the privacy of individuals. Because this final rule will not affect the privacy of individuals, FMCSA did not conduct a separate privacy impact assessment.

List of Subjects in 49 CFR Part 372

Agricultural commodities, Buses, Cooperatives, Freight forwarders, Motor carriers, Moving of household goods, Seafood.

For reasons set forth in the preamble, FMCSA adopts the interim rule published February 24, 2016 (81 FR 9117), as final without change.

Issued pursuant to authority delegated in 49 CFR 1.87 on: May 17, 2016

T.F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2016–12184 Filed 5–24–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 160322276–6276–01]

RIN 0648–BF93

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Effort Limits in Purse Seine Fisheries for 2016

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim rule; request for comments.

SUMMARY: This interim rule establishes a limit for calendar year 2016 on fishing effort by U.S. purse seine vessels in the U.S. exclusive economic zone (U.S. EEZ) and on the high seas between the latitudes of 20° N. and 20° S. in the area of application of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention). The limit is 1,828 fishing days. This action is necessary for the United States to implement provisions of a conservation and management measure adopted by the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC or Commission) and to satisfy the obligations of the United States under the Convention, to which it is a Contracting Party.

DATES: Effective on May 25, 2016. Comments must be submitted in writing by June 24, 2016.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2016–0038, and the regulatory impact review (RIR) prepared for the interim rule, by either of the following methods:

- *Electronic submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0038,*
2. Click the "Comment Now!" icon, complete the required fields, and
3. Enter or attach your comments.

- OR -

- *Mail:* Submit written comments to Michael D. Tosatto, Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, might not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name and address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of the RIR, and the programmatic environmental assessment (PEA) and supplemental information report prepared for National Environmental Policy Act (NEPA) purposes are available at *www.regulations.gov* or may be obtained from Michael D. Tosatto, Regional Administrator, NMFS PIRO (see address above).

FOR FURTHER INFORMATION CONTACT: Tom Graham, NMFS PIRO, 808–725–5032.

SUPPLEMENTARY INFORMATION:

Background on the Convention

The Convention is concerned with the conservation and management of highly migratory species (HMS) and the management of fisheries for HMS. The objective of the Convention is to ensure, through effective management, the long-term conservation and sustainable use of HMS in the WCPO. To accomplish this objective, the Convention established the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Commission or WCPFC), which includes Members, Cooperating Non-members, and Participating Territories (collectively referred to here as "members"). The United States of America is a Member. American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI) are Participating Territories.

As a Contracting Party to the Convention and a Member of the Commission, the United States implements, as appropriate, conservation and management measures adopted by the Commission and other decisions of the Commission. The WCPFC Implementation Act (16 U.S.C. 6901 *et seq.*), authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the Commission. The WCPFC Implementation Act further provides that the Secretary of Commerce shall ensure consistency, to the extent practicable, of fishery management programs administered under the WCPFC Implementation Act and the Magnuson-Stevens Fishery Conservation and Management Act (MSA; 16 U.S.C. 1801 *et seq.*), as well as other specific laws (see 16 U.S.C. 6905(b)). The Secretary of Commerce has delegated the authority to promulgate regulations under the WCPFC Implementation Act to NMFS. A map showing the boundaries of the area of application of the Convention (Convention Area), which comprises the majority of the WCPO, can be found on the WCPFC Web site at: *www.wcpfc.int/doc/convention-area-map.*

WCPFC Decision on Tropical Tunas

At its Twelfth Regular Session, in December 2015, the WCPFC adopted Conservation and Management Measure (CMM) 2015–01, "Conservation and Management Measure for Bigeye, Yellowfin and Skipjack Tuna in the Western and Central Pacific Ocean." CMM 2015–01 is the most recent in a series of CMMs for the management of tropical tuna stocks under the purview of the Commission. It is a successor to CMM 2014–01, adopted in December 2014. These and other CMMs are available at: *www.wcpfc.int/conservation-and-management-measures.*

The stated general objective of CMM 2015–01 and several of its predecessor CMMs is to ensure that the stocks of bigeye tuna (*Thunnus obesus*), yellowfin tuna (*Thunnus albacares*), and skipjack tuna (*Katsuwonus pelamis*) in the WCPO are, at a minimum, maintained at levels capable of producing their maximum sustainable yield as qualified by relevant environmental and economic factors. The CMM includes specific objectives for each of the three stocks: For each, the fishing mortality rate is to be reduced to or maintained at levels no greater than the fishing mortality rate associated with maximum sustainable yield.

CMM 2015–01 went into effect February 6, 2016, and is generally applicable for the 2016–2017 period. The CMM includes provisions for purse seine vessels, longline vessels, and other types of vessels that fish for HMS. The CMM's provisions for purse seine vessels include limits on the allowable number of fishing vessels, limits on the allowable level of fishing effort, restrictions on the use of fish aggregating devices, requirements to retain all bigeye tuna, yellowfin tuna, and skipjack tuna except in specific circumstances, and requirements to carry vessel observers.

The provisions of CMM 2015–01 apply on the high seas and in EEZs in the Convention Area; they do not apply in territorial seas or archipelagic waters.

Paragraphs 20–27 of CMM 2015–01 require that WCPFC members limit the amount of fishing effort by purse seine vessels in certain areas of the Convention Area between the latitudes of 20° N. and 20° S. Paragraph 23 contains the relevant provisions for the U.S. EEZ, and paragraph 25 contains the relevant provisions for U.S. fishing vessels on the high seas.

Under Paragraph 23 of CMM 2015–01, coastal members like the United States are to "establish effort limits, or equivalent catch limits for purse seine fisheries within their EEZs that reflect the geographical distributions of skipjack, yellowfin, and bigeye tunas, and are consistent with the objectives for those species." It further states, "Those coastal States that have already notified limits to the Commission shall restrict purse seine effort and/or catch within their EEZs in accordance with those limits." The United States has regularly notified the Commission of its purse seine effort limits for the U.S. EEZ since the limits were first established in 2009 (in a final rule published August 4, 2009; 74 FR 38544). Accordingly, the applicable limit for the U.S. EEZ is the same as that implemented by NMFS since 2009, which is 558 fishing days per year. Under paragraph 23 of CMM 2015–01, this limit is applicable from 2016 through 2017.

Paragraph 25 of CMM 2015–01 further provides that U.S. purse seine fishing effort on the high seas in 2016 be limited to 1,270 fishing days. It does not include limits for the years after 2016, instead stating that in 2016 the Commission will review the 2016 limits and agree on limits for later years.

The Action

This interim rule is limited to implementing CMM 2015–01's provisions on allowable levels of fishing effort by purse seine vessels on the high seas and in the U.S. EEZ in the Convention Area, and only for 2016. The CMM's other provisions are being implemented through one or more separate rules, as appropriate.

As in previous rules to implement similar Commission-mandated limits on purse seine fishing effort, this interim rule continues to implement the applicable limits for the U.S. EEZ (paragraph 23 of CMM 2015–01) and the high seas (paragraph 25 of CMM 2015–01) such that they apply to a single area, without regard to the boundary between the U.S. EEZ and the high seas. CMM 2015–01 has separate provisions for the high seas and the EEZ merely because they are subject to different management responsibility, and not because of different conservation and management needs or objectives for the two areas. Specifically, CMM 2015–01 calls for fishing effort in EEZs to be limited by coastal States, and fishing effort in areas of high seas to be limited by flag States.

In this case, the United States is both a coastal State and a flag State and will satisfy its dual responsibilities by implementing a rule that combines the two areas for the purpose of limiting purse seine fishing effort. NMFS considered both the action alternative that would combine the two areas and another alternative that would not (see the PEA and the RIR for comparisons of the two alternatives). Because both alternatives would accomplish the objective of controlling fishing effort by the WPCFC-adopted amount (*i.e.*, by U.S. purse seine vessels operating on the high seas and by purse seine vessels in areas under U.S. jurisdiction, collectively), and because the alternative of combining the two areas is expected to result in greater operational flexibility to affected purse seine vessels and lesser adverse economic impacts, NMFS is implementing the alternative that would combine the two areas. This combined area (within the Convention Area between the latitudes of 20° N. and 20° S.) is referred to in U.S. regulations as the Effort Limit Area for Purse Seine, or ELAPS (see 50 CFR 300.211).

The 2016 purse seine fishing effort limit for the ELAPS is formulated as in previous rules to establish limits for the ELAPS: The applicable limit for the U.S. EEZ portion of the ELAPS, 558 fishing days per year, is combined with the applicable limit for the high seas portion of the ELAPS, 1,270 fishing days per year, resulting in a combined limit of 1,828 fishing days in the ELAPS for calendar year 2016. This ELAPS limit for 2016, 1,828 fishing days, is identical to the limits established for 2014 and 2015.

The meaning of "fishing day" is defined at 50 CFR 300.211; that is, any day in which a fishing vessel of the United States equipped with purse seine gear searches for fish, deploys a FAD, services a FAD, or sets a purse seine, with the exception of setting a purse seine solely for the purpose of testing or cleaning the gear and resulting in no catch.

As established in existing regulations for purse seine fishing effort limits in the ELAPS, NMFS will monitor the number of fishing days spent in the ELAPS using data submitted in logbooks and other available information. If and when NMFS determines that the limit of 1,828 fishing days is expected to be reached by a specific future date, it will publish a notice in the **Federal Register** announcing that the purse seine fishery in the ELAPS will be closed starting on a specific future date and will remain closed until the end of calendar year 2016. NMFS will publish that notice at least seven days in advance of the closure date (see 50 CFR 300.223(a)(2)). Starting on the announced closure date, and for the remainder of calendar year 2016, it will be prohibited for U.S. purse seine vessels to fish in the ELAPS (*see* CFR 300.223(a)(3)).

This interim rule is being issued without prior notice or prior public comment because of the unexpectedly high level of U.S. purse seine fishing effort in the ELAPS in 2016. The high level in 2016 was unexpected because the fleet did not receive licenses which are required for fishing in the South Pacific Tuna Treaty Area, which includes most of the ELAPS, until March 4. NMFS did not anticipate that U.S. purse seine vessels would concentrate fishing effort during the first two months of 2016 in small pocket areas of the ELAPS that are not part of the Treaty Licensing Area and do not require Treaty licenses to fish.

To satisfy the international obligations of the United States as a Contracting Party to the Convention, NMFS must establish the applicable limits for 2016 before they are exceeded, which, based on preliminary data available to date, NMFS expects could occur as early as June of 2016. NMFS would not be able to establish the applicable limits for 2016 if it issued and considered public comments on a proposed rule prior to issuing a final rule. Nonetheless, NMFS will consider public comments on this interim rule and issue a final rule, responding to comments as appropriate.

Petition for Rulemaking and Advance Notice of Proposed Rulemaking

On May 12, 2015, as NMFS was preparing to publish the interim rule to establish the ELAPS limit for 2015 (published May 21, 2015; 80 FR 29220), NMFS received a petition for rulemaking from Tri Marine Management Company, LLC. The company requested, first, that NOAA undertake an emergency rulemaking to implement the 2015 ELAPS limits for fishing days on the high seas, and second, that NOAA issue a rule exempting from that high seas limit any U.S.-flagged purse seine vessel that, pursuant to contract or declaration of intent, delivers or will deliver at least 50 percent of its catch to tuna processing facilities based in American Samoa. On October 23, 2015, NMFS announced that it had denied the petition, but at the same time issued an advance notice of proposed rulemaking (ANPR) related to the subject of the petition (80 FR 64382). NMFS stated that it intends to examine the potential impacts of the domestic implementation of Commission decisions for purse seine fisheries on the economies of the U.S. Participating Territories, and examine the connectivity between the activities of U.S.-flagged purse seine fishing vessels and the economies of the territories. NMFS further stated that it will consider proposing regulations that mitigate adverse economic impacts of purse seine fishing restrictions on the U.S. Participating Territories, to the extent consistent with U.S. obligations under the Convention, and that it is considering proposing regulations that recognize that in the context of implementing Commission decisions, fisheries associated with the U.S. Participating Territories are distinct from the purse seine fishery of the United States. In that case, the purse seine fisheries associated with the U.S. Participating Territories might be subject to special provisions of the Convention and of Commission decisions, and NMFS would implement those provisions and decisions accordingly.

NMFS' impact analysis is not completed and NMFS is not prepared to propose regulations of the types described in the ANPR. However, establishment through this interim rule of the limit of 1,828 fishing days for 2016 will not preclude NMFS from proposing at a later date regulations of the types described in the ANPR for 2016 or subsequent years.

Classification

The Administrator, Pacific Islands Region, NMFS, has determined that this interim rule is consistent with the WCPFC Implementation Act and other applicable laws.

Administrative Procedure Act

There is good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this action, because prior notice and the opportunity for public comment would be contrary to the public interest. This rule establishes a limit on purse seine fishing effort for 2016 that is identical to the limits in place for 2014 and 2015. Affected entities have been subject to fishing effort limits in the affected area—the ELAPS—since 2009, and are expecting imminent publication of the 2016 fishing effort limits. Because the amount of U.S. purse seine fishing effort in the ELAPS so far in 2016 has been unusually high, it is critical that NMFS publish the limit for 2016 as soon as possible to ensure it is not exceeded and the United States complies with its international legal obligations with respect to CMM 2015–01. Based on preliminary data available to date, NMFS expects that the applicable limit of 1,828 fishing days in the ELAPS could be reached as early as June of 2016. Delaying this rule to allow for advance notice and public comment would bring a substantial risk that more than 1,828 fishing days would be spent in the ELAPS in 2016, constituting non-compliance by the United States with respect to the purse seine fishing effort limit provisions of CMM 2015–01. Because a delay in implementing this limit for 2016 could result in the United States violating its international legal obligations with respect to the purse seine fishing effort limit provisions of CMM 2015–01, which are important for the conservation and management of tropical tuna stocks in the WCPO, allowing advance notice and the opportunity for public comment would be contrary to the public interest. NMFS will, however, consider public comments received on this interim rule and issue a final rule, responding to comments as appropriate.

For the reasons articulated above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date for this rule. As described above, NMFS must implement the purse seine fishing effort provisions of CMM 2015–01 as soon as possible, in order to ensure that the applicable effort limits are not exceeded. These fishing effort provisions are intended to reduce or otherwise control fishing pressure on bigeye tuna, yellowfin tuna, and skipjack tuna in the WCPO in order to maintain or restore those stocks at levels capable of producing maximum sustainable yield on a continuing basis. Failure to immediately implement these provisions could result in excessive fishing pressure on these stocks, in violation of international and domestic legal obligations.

Executive Order 12866

This interim rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable. Therefore, no regulatory flexibility analysis was required and none has been prepared.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: May 19, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart O—Western and Central Pacific Fisheries for Highly Migratory Species

■ 1. The authority citation for 50 CFR part 300, subpart O, continues to read as follows:

Authority: 16 U.S.C. 6901 *et seq.*

■ 2. In § 300.223, revise paragraph (a)(1) to read as follows:

§ 300.223 Purse seine fishing restrictions.

* * * * *

(a) * * *

(1) For calendar year 2016 there is a limit of 1,828 fishing days.

* * * * *

[FR Doc. 2016–12345 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 141107936–5399–02]

RIN 0648–XE606

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Re-Opening of Commercial Sector for South Atlantic Gray Triggerfish; January Through June Season

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; re-opening.

SUMMARY: NMFS announces the re-opening of the commercial sector for gray triggerfish in the exclusive economic zone (EEZ) of the South Atlantic through this temporary rule. The most recent commercial landings of gray triggerfish indicate the commercial annual catch limit (ACL) for the January through June fishing season has not yet been reached. Therefore, NMFS re-opens the commercial sector for gray triggerfish in the South Atlantic EEZ for 18 days to allow the commercial ACL to be caught, while minimizing the risk of the commercial ACL being exceeded.

DATES: This rule is effective 12:01 a.m., local time, June 13, 2016, until 12:01 a.m., local time, July 1, 2016.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes gray triggerfish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL (equal to the commercial quota) for gray triggerfish during the January through June fishing season is 156,162 lb (70,834 kg), round weight, as specified in 50 CFR 622.190(a)(8)(i). Under 50 CFR 622.193(q)(1)(i), NMFS is required to close the commercial sector for gray triggerfish when the commercial quota for the January through June fishing season specified in § 622.190(a)(8)(i) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS previously projected that the commercial quota for South Atlantic gray triggerfish for the January through June fishing season would be reached by April 2, 2016. Accordingly, NMFS published a temporary rule to implement accountability measures (AMs) to close the commercial sector for South Atlantic gray triggerfish effective from April 2, 2016, until the start of the July through December fishing season on July 1, 2016 (81 FR 17094, March 28, 2016).

However, the most recent landings data for gray triggerfish indicate the commercial quota has not been reached. Consequently and in accordance with 50 CFR 622.8(c), NMFS temporarily re-opens the commercial sector for gray triggerfish on June 13, 2016. The commercial sector will remain open for 18 days until the July through December fishing season begins on July 1, 2016. Re-opening the commercial sector on June 13, 2016, through June 30, 2016, allows for an additional opportunity to commercially harvest gray triggerfish, minimizes the risk of the commercial quota being exceeded, and allows fishermen to harvest gray triggerfish without a closure period until the next fishing season begins on July 1, 2016.

Classification

The Regional Administrator, NMFS Southeast Region, has determined this temporary rule is necessary for the conservation and management of gray triggerfish and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(c) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA), finds that the need to immediately implement this action to temporarily re-open the commercial sector for gray triggerfish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the commercial quota and AMs has been subject to notice and comment, and all that remains is to notify the public of the re-opening. Such procedures are contrary to the public interest because of the need to immediately implement this action to allow commercial fishermen to harvest the commercial quota of gray triggerfish from the EEZ, while minimizing the risk of exceeding the commercial quota. Prior notice and opportunity for public comment would require time and would delay the re-opening of the commercial sector.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 20, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–12356 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140501394–5279–02]

RIN 0648–XE629

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2016 Commercial Accountability Measures and Closure for Blueline Tilefish in the South Atlantic Region

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for commercial blueline tilefish in the exclusive economic zone (EEZ) of the South Atlantic. Commercial landings for blueline tilefish are projected to reach the commercial annual catch limit (ACL) by June 1, 2016. Therefore, NMFS is closing the commercial sector for blueline tilefish in the South Atlantic EEZ at 12:01 a.m., local time, June 1, 2016, and it will remain closed until the start of the next fishing season on January 1, 2017. This closure is necessary to protect the blueline tilefish resource.

DATES: This rule is effective at 12:01 a.m., local time, June 1, 2016, until 12:01 a.m., local time, January 1, 2017.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional

Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes blueline tilefish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The South Atlantic Fishery Management Council and NMFS prepared the FMP, and the FMP is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

In Amendment 32 to the FMP (Amendment 32), NMFS implemented management measures to end overfishing of blueline tilefish. The final rule for Amendment 32 was effective on March 30, 2015 (80 FR 16583, March 30, 2015).

NMFS is required to close the commercial sector for blueline tilefish when the commercial ACL is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register, as specified in 50 CFR 622.193(z)(1)(i). For 2016, the commercial ACL for blueline tilefish is 26,766 lb (12,141 kg), round weight. NMFS has projected that the commercial ACL for South Atlantic blueline tilefish will be reached by June 1, 2016. Accordingly, the commercial sector for South Atlantic blueline tilefish is closed effective at 12:01 a.m., local time, June 1, 2016, until 12:01 a.m., local time, January 1, 2017.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having blueline tilefish on board must have landed and bartered, traded, or sold such blueline tilefish prior to June 1, 2016. During the closure, all sale or purchase of blueline tilefish is prohibited and harvest or possession of blueline tilefish in or from the South Atlantic EEZ is limited to the bag and possession limits specified in 50 CFR 622.187(b)(2)(iv) and 622.187(c)(1), respectively. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of blueline tilefish and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(z)(1)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action to close the commercial sector for blueline tilefish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such prior notice and opportunity for public comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations at 50 CFR 622.193(z)(1)(i) and (iii) have already been subject to notice and comment, and all that remains is to notify the public of the closure. Prior notice and opportunity for public comment are contrary to the public interest because there is a need to immediately implement this action to protect blueline tilefish, since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–12351 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 150818742–6210–02]

RIN 0648–XE644

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery and Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery and the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal apportionment of the Pacific halibut bycatch allowance specified for each of these trawl fishery categories in the GOA has been reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), May 20, 2016, through 1200 hours, A.l.t., July 1, 2016.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal apportionments of the Pacific halibut bycatch allowance specified for the deep-water species and the shallow-water species fisheries in the GOA are 256 metric tons (mt) and 85 mt, respectively. These apportionments were established by the final 2016 and 2017 harvest specifications for groundfish of the GOA (81 FR 14740, March 18, 2016), for the period 1200 hours, A.l.t., April 1, 2016, through 1200 hours, A.l.t., July 1, 2016.

In accordance with § 679.21(d)(6)(i), the Administrator, Alaska Region, NMFS, has determined that the second seasonal apportionment of the combined Pacific halibut bycatch allowance specified for the trawl deep-water species and shallow-water species fishery categories in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species and the shallow-water species fisheries by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery include sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder. The species and species groups that comprise the shallow-water species fishery are pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, skates, squids, sharks, octopuses, and sculpins. This closure does not apply to fishing by vessels participating in the cooperative fishery in the Rockfish Program for the Central GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the deep-water species fishery and the shallow-water species fishery by vessels using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of May 19, 2016.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 20, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–12354 Filed 5–20–16; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 101
Wednesday, May 25, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2011–6]

Designation of Agent To Receive Notification of Claimed Infringement

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: Under the Digital Millennium Copyright Act ("DMCA"), the U.S. Copyright Office is required to maintain a current directory of agents that have been designated by online service providers to receive notifications of claimed infringement. Since the DMCA's enactment in 1998, online service providers have used a paper form to designate agents with the Copyright Office, and the Office has made scanned copies of those paper forms available to the public by posting them on the Office's Web site. In 2011, the Copyright Office issued a notice proposing updated regulations governing the designation of agents under the DMCA in anticipation of the creation of a new online system though which service providers could more efficiently designate agents with the Copyright Office and the public could more easily search for such agents. With the development of this electronic system approaching completion, this notice proposes an amendment of the Office's regulations to lower the fee for designating an agent under the DMCA.

DATES: Written comments must be received no later than 11:59 p.m. Eastern Time on June 24, 2016.

ADDRESSES: For reasons of government efficiency, the Copyright Office is using the regulations.gov system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through regulations.gov. Specific instructions for submitting comments are available on the Copyright Office Web site at *http://www.copyright.gov/rulemaking/onlinesp/NPR.* If electronic submission of comments is not feasible due to lack of access to a computer and/or the internet, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Jacqueline C. Charlesworth, General Counsel and Associate Register of Copyrights, by email at *jcharlesworth@loc.gov,* Sarang V. Damle, Deputy General Counsel, by email at *sdam@loc.gov,* or Jason E. Sloan, Attorney-Advisor, by email at *jslo@loc.gov.* Each can be contacted by telephone by calling 202–707–8350.

SUPPLEMENTARY INFORMATION:

I. Background

In 1998, Congress enacted section 512 of title 17, United States Code, as part of the DMCA.[1] Among other things, section 512 provides safe harbors from copyright infringement liability for online service providers engaged in specified activities and that meet certain eligibility requirements.[2] A service provider seeking to avail itself of the safe harbor in section 512(c) (for storage of material at the direction of a user) is required to designate an agent to receive notifications of claimed copyright infringement by making contact information for the agent available through its service, including on its Web site in a location accessible to the public, and by providing such contact information to the Copyright Office.[3] Although the requirement to designate an agent to receive notifications of claimed infringement is detailed in subsection 512(c), the safe harbors in subsections 512(b) (for system caching) and (d) (for information location tools), incorporate the notice provisions of section 512(c)(3), which in turn require that notices be sent to "the designated agent of a service provider." [4] For its part, the Copyright Office is required to maintain a current online directory of designated agents that is available to the public, and is authorized to require payment of a fee by service providers to cover the costs of maintaining the system.[5]

Because the DMCA was effective on its date of enactment and a procedure to enable the designation of agents needed to be in place immediately, the Copyright Office issued, without opportunity for comment, interim regulations governing the designation of agents to receive notifications of claimed infringement.[6] Those interim regulations, which are still in effect today, require service providers to submit a paper form to the Copyright Office setting forth the requisite information for the designated agent.[7] The Copyright Office then scans the forms and posts them on its Web site.[8]

In an effort to update the existing system, the Office issued a notice of proposed rulemaking ("NPRM") on September 28, 2011, describing the Office's proposal for a new electronic system though which service providers could more efficiently designate agents with the Copyright Office and the public could more easily search for such agents in the online directory.[9] The NPRM sought public comment on proposed rules that would govern the submission and updating of information relating to designated agents under such a system.[10] The NPRM also explained that the Office would establish new fees to file, renew,[11] or amend the designation of an agent, and that it would publish a notice of proposed rulemaking to seek comments on the proposed fees.[12]

Following the 2011 NPRM, the Library of Congress commenced the software development effort. Although it appeared at that time that the Library would be able to commit the necessary resources to complete development of the system without significant delay, as it turned out, the Library was unable to supply the requisite resources until fairly recently. With the new electronic system now nearing completion, the Office seeks public comment on proposed fees to use it.

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[1] Public Law 105–304, 112 Stat. 2860 (1998).

[2] *See* 17 U.S.C. 512.

[3] *Id.* at 512(c)(2).

[4] *See id.* at 512(b)(2)(E), (d)(3).

[5] *Id.* at 512(c)(2).

[6] *See* 63 FR 59233 (Nov. 3, 1998).

[7] *See* 37 CFR 201.38.

[8] *See http://www.copyright.gov/onlinesp/.*

[9] *See* 76 FR 59953 (Sept. 28, 2011).

[10] *Id.*

[11] In the NPRM, the Office explained that the proposed system would require service providers to periodically "validate" the designated agent information with the Copyright Office, to ensure that the information in the Office's directory would remain current and accurate. *See id.* at 59954–55. To avoid confusion and better reflect the actual operation of the anticipated electronic system, the Office will refer to this process as the "renewal" of the designation rather than the "validation" of the designation.

[12] *Id.* at 59956, 59959–60.

II. Discussion

Section 512(c)(2) of title 17 authorizes the Register of Copyrights to "require payment of a fee by service providers to cover the costs" of maintaining a directory of agents designated to receive notifications of claimed infringement."[13] In addition, section 708(a) of title 17 more generally authorizes the Register to fix fees for certain Office services, including the electronic directory, based on the cost of providing the service.[14]

Currently, the fee for a service provider to designate an agent with the Office, or amend a designation, is $105, plus an additional fee of $35 for each group of 1 to 10 alternate names used by the service provider.[15] This fee reflects the cost to the Office of receiving, reviewing, scanning, and posting the paper forms submitted by service providers, a largely manual process. Based on an analysis of the cost of operating and maintaining the new electronic system, the Office believes that the fee to designate an agent to receive a notification of claimed infringement can be much lower, and should be established at six dollars per designation—whether a new designation, a renewed designation, or an amended designation. At this time, the Office does not believe that an additional fee to include alternate names with a designation to be warranted, as the Office does not currently foresee appreciable additional costs due to the submission of alternate names through the online process.

This significantly lower proposed fee reflects the far greater efficiency of the electronic system for the Copyright Office. The Office arrived at the six dollar amount by considering the total personnel costs associated with administering and maintaining the new service, spread across the anticipated volume of designations. The Office expects that ongoing support for any operational system will require Copyright Office staff to monitor, evaluate, and address issues that may arise with the system, as well as the portions of the Office's Web site that will integrate with the system, as needed. Additionally, support will be needed to respond to any user concerns that may arise, as well as to manage payments received. Based on the cost of employee time spent on these tasks (including salary and benefits), the Office calculates the total costs to be approximately $41,000 per year.[16] With respect to the anticipated number of designations that will be filed, the Office notes that 23,300 designations have been filed since 1998 and are included in the existing directory.[17] While it is difficult to know how many remain active, undoubtedly a significant portion—for present purposes, the Office is estimating 75% to 85%—represent service providers that continue to operate. In addition, the Office expects a certain number of new and amended designations to be filed in the coming years. In total, the Office estimates an average of 7,000 designations to filed per year.[18] Should experience with the system suggest that the anticipated personnel and overhead expenses or estimated volume of designations is incorrect, the Office will revisit the fee.

At this time, the Office is soliciting comments only on the fee for the new system. Accordingly, comments in response to this notice should be directed solely to the appropriateness of the proposed fee.[19]

List of Subjects in 37 CFR Part 201

Copyright.

Proposed Regulation

In consideration of the foregoing, the Copyright Office proposes to amend 37 CFR part 201 as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 2. Revise entry (17) in the table to § 201.3(c) to read as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.

* * * * *

(c) * * *

Registration, recordation and related services	Fees ($)
* * * * * *	*
(17) Designation of agent under § 512(c)(2) to receive notification of claimed infringements, including renewal or amendment of designation	6
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[13] 17 U.S.C. 512(c)(2).

[14] *See id.* at 708(a) ("The Register is authorized to fix fees for other services [not enumerated in section 708(a)(1)–(9)] based on the cost of providing the service.").

[15] 37 CFR 201.3(c)(17).

[16] It is anticipated that the Office will not need to maintain the system's IT infrastructure from a technical standpoint because the Library currently provides these services to the Office. If the Library begins charging for these services, or if the Office takes over these IT functions in the future, the fee may need to be reevaluated.

[17] The number of listings appears higher in the current DMCA directory because each alternate name in a designation is listed separately, even though each such listing links to a single designation filing.

[18] These calculations assume that active existing designations will need to be refiled electronically in the new system. The calculations also anticipate that to keep the directory up to date, designations will be renewable on a three-year basis.

[19] The Office, in its prior notice, previously asked for and received comments on the design and operation of the electronic system. Those comments will be separately reviewed and discussed in conjunction with the final rule that will govern the system.

* * * * *

Dated: May 19, 2016.

Jacqueline C. Charlesworth,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2016–12227 Filed 5–24–16; 8:45 am]

BILLING CODE 1410–30–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP44

Advanced Practice Registered Nurses

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its medical regulations to permit full practice authority of all VA advanced practice registered nurses (APRNs) when they are acting within the scope of their VA employment. This rulemaking would increase veterans' access to VA health care by expanding the pool of qualified health care professionals who are authorized to provide primary health care and other related health care services to the full extent of their education, training, and certification, without the clinical supervision of physicians. This rule would permit VA to use its health care resources more effectively and in a manner that is consistent with the role of APRNs in the non-VA health care sector, while maintaining the patient-centered, safe, high-quality health care that veterans receive from VA. The proposed rulemaking would establish additional professional qualifications an individual must possess to be appointed as an APRN within VA. The proposed rulemaking would subdivide APRN's into four separate categories that include certified nurse practitioner, certified registered nurse anesthetist, clinical nurse specialist, and certified nurse-midwife. The proposed rulemaking would also provide the criteria under which VA may grant full practice authority to an APRN, and define the scope of full practice authority for each category of APRN. VA intends that the services to be provided by an APRN in one of the four APRN roles would be consistent with the nursing profession's standards of practice for such roles.

DATES: Comments must be received by VA on or before July 25, 2016.

ADDRESSES: Written comments may be submitted: Through *http://www.Regulations.gov*; by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; by fax to (202) 273–9026. Comments should indicate that they are submitted in response to "RIN 2900–AP44-Advanced Practice Registered Nurses." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Penny Kaye Jensen, Liaison for National APRN Practice, 810 Vermont Ave. NW., Washington, DC 20420; (202) 461–6700. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 7301 of title 38 United States Code (U.S.C.) establishes the Veterans Health Administration (VHA) within VA, and establishes that its primary function is to "provide a complete medical and hospital service for the medical care and treatment of veterans, as provided in this title and in regulations prescribed by the Secretary pursuant to this title." 38 U.S.C. 7301(b). In carrying out this function, VHA has an obligation to ensure that patient care is appropriate and safe and its health care practitioners meet or exceed generally-accepted professional standards for patient care. The Secretary is responsible for the proper execution and administration of all laws administered by the Department and for the control, direction, and management of the Department, to include agency personnel and management matters. See 38 U.S.C. 303. To enable the Secretary to direct, control and manage VA, Congress authorized the Secretary "to prescribe all rules and regulations which are necessary or appropriate to carry out the laws administered by the Department and are consistent with those laws." 38 U.S.C. 501(a). The Under Secretary for Health is directly responsible to the Secretary for the operation of VHA (38 U.S.C. 305(b)). Unless specifically otherwise provided, the Under Secretary for Health, as the head of VHA, is authorized to "prescribe all regulations necessary to the administration of the Veterans Health Administration," subject to the approval of the Secretary. 38 U.S.C. 7304. To allow VA to carry out its medical care mission, Congress also established a comprehensive personnel system for certain medical employees in VHA, independent of the civil service rules. See Chapters 73 and 74 of title 38, U.S.C. The Secretary was granted express statutory authority to establish the qualifications for VA's healthcare practitioners, determine the hours and conditions of employment, take disciplinary action against employees, and otherwise regulate the professional activities of those individuals. 38 U.S.C. 7401–7464. As an integrated Federal health care system with the responsibility to provide comprehensive care under 38 U.S.C. 7301, it is essential that VHA wisely manage its resources and fully utilize the skills of its health care providers to the full extent of their education, training, and certification. By permitting APRNs throughout the VHA system a way to achieve full practice authority in order to provide advanced nursing services to the full extent of their professional competence, VHA would further its statutory mandate to provide quality health care to our nation's veterans. This proposed regulatory change to nursing policy would permit APRNs to practice to the full extent of their education, training and certification, without the clinical supervision or mandatory collaboration of physicians. Standardization of APRN full practice authority, without regard for individual State practice regulations, would help to ensure a consistent continuum of health care across VHA by decreasing the variability in APRN practice that currently exists across VHA as a result of disparate State practice regulations. As of March 7, 2016 CRNAs have full practice authority in 17 states, while CNPs have full practice authority in almost 50% of the nation, which includes 21 states and the District of Columbia.

It would also aid in fully maximizing VHA APRN staff capabilities, which would increase VA's capacity to provide timely, efficient, and effective primary care services, as well as other services. This would increase veteran access to needed VA health care, particularly in medically-underserved areas, as well as decrease the amount of time veterans spend waiting for patient appointments. In addition, standardizing APRN practice authority would enable veterans, their families, and caregivers to understand more readily the health care services that VA APRNs are authorized to provide. This preemptive rule would increase access to care and reduce the wait times for VA appointments utilizing the current workforce already in place.

To ensure that VA would have available highly qualified medical personnel, Congress mandated the basic qualifications for certain health care positions, including registered nurses. Sections 7401 through 7464 of title 38, U.S.C., grant VA authority to regulate the professional activities of such personnel. To be eligible for appointment as a VA employee in a health care position covered by section 7402(b) (other than Director), of title 38, U.S.C., a person must, among other requirements, be licensed, registered or certified to practice their profession in a State. The standards prescribed in section 7402(b) establish only the basic qualifications necessary "[t]o be eligible for appointment" and do not limit the Secretary or Under Secretary for Health from establishing other qualifications for appointment, or additional rules governing such personnel. In particular, 38 U.S.C. 7403(a)(1) provides that appointments under Chapter 74 "may be made only after qualifications have been established in accordance with regulations prescribed by the Secretary, without regard to civil-service requirements." In addition, 38 U.S.C. 7421(a) directs that, "[n]otwithstanding any law, Executive order, or regulation, the Secretary shall prescribe by regulation the hours and conditions of employment and leaves of absence of employees appointed under any provision of [chapter 74] [in the specifically numerated positions] in the Veterans Health Administration" (including registered nurses). As the head of VHA, the Under Secretary for Health has the duty to "prescribe all regulations necessary to the administration of the Veterans Health Administration," subject to approval by the Secretary. 38 U.S.C. 7304; see also 38 U.S.C. 501. Pursuant to this authority, the Under Secretary for Health is authorized to establish the qualifications and clinical practice standards of VHA's nursing personnel and to otherwise regulate their professional conduct.

To continue to provide high quality health care to veterans, VA is proposing to amend its regulations to allow APRNs to practice to the full extent of their education, training, and certification, regardless of individual State restrictions that limit such full practice authority, except for applicable State restrictions on the authority to prescribe and administer controlled substances, when such APRNs are acting within the scope of their VA employment. The proposed rule would use the term "full practice authority" to refer to the APRN's authority to provide advanced nursing services without the clinical oversight of a physician when that APRN is working within the scope of their VA employment. Such full practice authority would be granted by VA upon demonstrating that the established regulatory criteria are met. In addition, full practice authority would be granted appropriate to the clinical service setting.

This proposed rule is consistent with the recommendation of the Institute of Medicine (IOM) of the National Academy of Sciences to remove scope-of-practice barriers. Specifically, the 2010 IOM report, "The Future of Nursing: Leading Change Advancing Health," (IOM Report) available at *http://iom.nationalacademies.org/Reports/2010/The-Future-of-Nursing-Leading-Change-Advancing-Health.aspx,* recommended that "[a]dvanced practice registered nurses (APRNs) should be able to practice to the full extent of their education and training." *Id.* at 9. More generally, the report stated that "[r]estrictions on scope of practice and professional tensions have undermined the nursing profession's ability to provide and improve both general and advanced care" and asserted that "[p]roducing a health care system that delivers the right care—quality care that is patient centered, accessible, evidence based, and sustainable—at the right time will require transforming the work environment, scope of practice, education, and numbers and composition of America's nurses." *Id.* at 26. In addition, the proposed rule is consistent with the National Council of State Boards of Nursing (NCSBN) Consensus Model, as discussed in more detail later in this rulemaking. Significantly, many States already permit full practice authority of APRNs or are in the process of doing so. Under the proposed rulemaking, APRNs would not be authorized to replace or act as physicians or to provide any health care services that are beyond their clinical education, training, and national certification. The proposed rule would limit an APRN's full practice authority to practice within the scope of their VA employment, and any APRN practice outside of VA employment would remain subject to applicable State laws, in the same manner as any other licensed VA practitioner in their private practice.

In this rulemaking, VA is proposing to exercise Federal preemption of State nursing licensure laws to the extent such State laws conflict with the full practice authority granted to VA APRNs while acting within the scope of their VA employment. Preemption would be the minimum necessary action for VA to allow APRNs full practice authority. It would be impractical for VA to lobby to each State that does not allow full practice authority to APRNs to change their laws regarding full practice authority. This process would be costly and time consuming for VA and would not guarantee the desired result of full practice authority to all APRNs.

Section-by-Section Analysis of the Proposed Rule

17.415 Full Practice Authority for Advanced Practice Registered Nurses

The general qualifications for a person to be appointed as a VA nurse are found in 38 U.S.C. 7402(b)(3), which requires that a person must have successfully completed a full course of nursing in a recognized school of nursing, as well as be registered as a graduate nurse in a State. VA interprets "a recognized school of nursing" to mean a school of professional nursing approved by the appropriate State agency and accredited by the National League for Nursing Accrediting Commission (NLNAC) or the Commission on Collegiate Nursing Education (CCNE); the completion of coursework equivalent to a nursing degree in a MSN Bridge Program that qualifies for professional nursing registration; or a foreign school of professional nursing that enables the graduate to obtain current, full, active and unrestricted registration. VA Handbook 5005/27, Part II, Appendix G6, paragraph 2, Section B.a(2). VA interprets "registered as a graduate nurse in a state" to mean a current, full, active and unrestricted licensure, registration or certification as a graduate professional nurse in a State, Territory, or Commonwealth (*i.e.,* Puerto Rico) of the U.S. or in the District of Columbia (hereinafter "licensure"). Id. Pursuant to the authorities in 38 U.S.C. 7401 through 7464 and VA's rulemaking authorities at 38 U.S.C. 501 and 7304, VA is proposing a new § 17.415(a), which would define additional qualifications a registered nurse must possess to be appointed to one of four (4) APRN roles, *i.e.,* Certified Nurse practitioner (CNP), Certified Registered Nurse Anesthetist (CRNA), Clinical Nurse Specialist (CNS), or Certified Nurse-Midwife (CNM). The proposed rule would require an advanced practice registered nurse to have successfully completed a nationally-accredited, graduate-level educational program that prepares the advanced practice registered nurse in one of the four APRN roles; and to possess, and maintain, national certification and State licensure in that APRN role. These additional qualifications are derived from criteria set forth in the IOM Report, and the National Council of State Boards of Nursing Consensus Model for APRN Regulation: Licensure, Accreditation, Certification & Education) Regulation, July 2008 (the APRN Consensus Model), which VA finds to be the criteria most widely accepted by State boards of nursing and the nursing community as necessary to practice as an APRN. Under the proposed rule, APRNs who meet these additional qualifications may be granted full practice authority within VA in one of the four recognized APRN roles.

Proposed § 17.415(a)(1) would require an APRN to have successfully completed an accredited graduate-level educational program in one of the four distinct APRN roles. The Consensus Model defines these roles as CNP, CRNA, CNS, and CNM. These APRN roles are widely known and accepted by State boards of nursing and the nursing community. VA currently does not employ CNMs; however, the proposed rule includes CNMs in the event that VA has the need to hire CNMs in the future.

Proposed § 17.415(a)(2) would require an APRN to have passed a national certification examination that measures the APRN's knowledge, skills and experience demonstrated by the achievement of standards identified by the profession in one of the four APRN roles established in proposed § 17.415(a)(1). Public and private sector health care employers, State boards of nursing, and the nursing community rely on national certification through an examination process as the standard, which conveys adequate APRN knowledge, and VA's regulation would adopt the same standard.

Proposed § 17.415(a)(3) would require an APRN to possess a license from a State licensing board in one of the four recognized APRN roles. Proposed § 17.415(a)(4) would require an APRN to maintain both the national certification and licensure required in proposed paragraphs (a)(2) and (3) of § 17.415.

In total, proposed paragraphs (a)(1) through (4) of § 17.415 would establish qualifications for employment within VA as a CNP, CRNA, CNS and CNM. These qualifications would ensure that VA APRNs possess and maintain the education, knowledge, national certification and State licensure necessary for VA employment in one of the four recognized APRN roles. APRNs who meet these qualifications would be granted full practice authority within VA in one of the four recognized APRN roles.

Proposed § 17.415(b) would define "full practice authority" to mean that an APRN working within the scope of VA employment would be authorized to provide the services described in proposed § 17.415(d), without the clinical oversight of a physician, regardless of State or local law restrictions on that authority. Further, any APRN practice established outside VA employment would be subject to applicable State law, in the same manner as private practice by any other licensed VA provider.

Proposed § 17.415(c) would establish the criteria by which VA may grant full practice authority to an APRN. Proposed paragraph (c)(1), would require a VA medical facility to verify that the APRN meets the requirements established in proposed § 17.415(a). Proposed paragraph (c)(2) would require VA to confirm that the APRN has demonstrated the knowledge and skills necessary to provide the services described in proposed § 17.415(d) without the clinical oversight of a physician, and is thus qualified to be privileged for such scope of practice. Proposed § 17.415(c)(1) and (2) together would clarify that the VA processes for credentialing and privileging of licensed independent health care providers would apply to VA APRNs with full practice authority. VA anticipates that the granting of full-practice authority under proposed § 17.415(c) would be implemented through formal VHA guidance issuances.

Proposed § 17.415(d)(1) would describe the role-specific services that a VA APRN would be authorized to perform under their full practice authority. This authority would be without regard to state licensure restrictions, except as provided in proposed paragraph (d)(2), which would defer to State licensure restrictions on a VA APRN's authority to prescribe, or administer controlled substances. We emphasize that full practice authority for an APRN in this rulemaking would apply only to services provided by an APRN when working within the scope of their VA employment, as required by proposed § 17.415(b). Additionally, all full practice authority of APRNs in proposed § 17.415(d)(1) would be under approved privileges by, and within the available resources of, a VA medical facility, as required by proposed § 17.415(c). VA intends that the services to be provided by an APRN in one of the four APRN roles would be consistent with the nursing profession's standards of practice for such roles.

In proposed § 17.415(d)(1)(i), a CNP would have full practice authority to provide the following services: Comprehensive histories, physical examinations and other health assessment and screening activities; diagnose, treat, and manage patients with acute and chronic illnesses and diseases; order, perform, supervise, and interpret laboratory and imaging studies; prescribe medication and durable medical equipment and; make appropriate referrals for patients and families; and aid in health promotion, disease prevention, health education, and counseling as well as the diagnosis and management of acute and chronic diseases.

In proposed § 17.415(d)(1)(ii), a CRNA would have full practice authority to provide a patient's anesthesia care and anesthesia related care, to include planning and initiating anesthetic techniques (general, regional, local) and sedation, providing post-anesthesia evaluation and discharge; ordering and evaluating diagnostic tests; requesting consultations; performing point-of-care testing; and responding to emergency situations for airway management.

In proposed § 17.415(d)(1)(iii), a CNS would have full practice authority to provide diagnosis and treatment of health or illness states, disease management, health promotion, and prevention of illness and risk behaviors among individuals, families, groups, and communities within their scope of practice.

Lastly, in proposed § 17.415(d)(1)(iv), a CNM would have full practice authority to provide a full range of primary health care services to women veterans, including gynecologic care, family planning service, preconception care (care that women veterans receive before becoming pregnant, including reducing the risk of birth defects and other problems such as the treatment of diabetes and high blood pressure), prenatal and postpartum care, childbirth, and care of a newborn. We note that the pregnancy and delivery services described above, as well as the newborn care services, would be subject to the limitations established in 38 CFR 17.38(a)(1)(xiii) and (xiv), respectively. We also note that authorized CNM services would include treating the partner of the female patient for sexually transmitted infection and reproductive health, if the partner is enrolled in the VA healthcare system or not required to enroll to receive VA services. We would include the services of a CNM in this rulemaking in anticipation that VA would hire CNMs at a future date to improve access to health care for the increasing number of female veterans.

Proposed § 17.415(d)(2) would expressly limit full practice authority.

Congress has specifically required reliance on a specific State law under the Controlled Substance Act (CSA). Specifically, proposed § 17.415(a)(2) would provide that full practice authority within VA is subject to State licensure law with regard to the authority of an APRN to prescribe, or administer controlled substances, and to any other limitations on the provision of VA care set forth in applicable Federal law and policy. Regarding the full practice authority limitations for controlled substances, the CSA, 21 U.S.C. 801 *et seq.*, and implementing regulations in 21 CFR part 1300, make State licensure authority to prescribe, or administer controlled substances a prerequisite for authority under the CSA to prescribe, or administer controlled substances. See 21 U.S.C. 802(21) (providing that a practitioner must be "licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices or does research, to distribute, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research."); See also 21 CFR 1306.03(a) (stating that a prescription for a controlled substance may be issued only by an individual practitioner who is: (1) Authorized to prescribe controlled substances by the jurisdiction in which he is licensed to practice his profession and (2) either registered or exempted from registration pursuant to §§ 1301.22(c) and 1301.23.). Proposed § 17.415(d)(2) also would make the full practice authority of an APRN subject to any other limitations on the provision of VA care set forth in Federal law or policy.

Proposed § 17.415(e) would expressly state the intended preemptive effect of proposed § 17.415, to ensure it is clear that conflicting State and local laws related to the practice of APRNs would have no force or effect when such APRNs are working within the scope of their VA employment. In circumstances where there is a conflict between Federal and State Law, Federal law prevails in accordance with Article VI, clause 2, of the U.S. Constitution (Supremacy Clause). It is a well-established principle of constitutional law that Federal law is supreme, and States may not regulate or control the lawful actions of the Federal Government, absent Congressional consent. Therefore, where there is conflict between State law and Federal law with regard to full practice authority of APRNs working within the scope of their federal VA employment, this regulation would control. Accordingly, State disciplinary actions that would penalize, or otherwise interfere with, an APRN's full practice authority in the performance of their official VA duties, would likewise be effectively preempted. However, where there is no conflict between this regulation and State law, the State would retain authority to impose State regulations on its APRN licensees and take disciplinary action for any violations. We emphasize that this preemptive effect would only pertain to APRNs when they are acting within the scope of their federal VA employment; this rule would not have any effect on individual State efforts to either permit or restrict full practice authority for APRNs who are not working within a VA scope of employment.

The Indian Health Service already grants full practice authority to APRNs. See Part 4, Chapter 3, Section 11, "Advanced Practice Nurses," Indian Health Manual. In the Military Health System, the Services employ APRNs, which includes Nurse Midwives, Nurse Practitioners, and Nurse Anesthetists, in independent practice without oversight from physicians. They are privileged in their roles as APRNs and can adjust their scope practice (level of care) through privileging as granted by a committee of physicians and the military treatment facility commander. Nurse Practitioners specifically have an assigned group of patients for which they are responsible. Therefore, we do not anticipate that the proposed changes in this rulemaking would be completely novel or unexpected to the general public or other Federal entities that provide health care services to beneficiaries.

Executive Order 13132, Federalism

Section 4 of Executive Order 13132 (titled "Federalism") requires an agency that is publishing a regulation that preempts State law to follow certain procedures. Section 4(b) of the Executive Order requires agencies to "construe any authorization in the statute for the issuance of regulations as authorizing preemption of State law by rulemaking only when the exercise of State authority directly conflicts with the exercise of Federal authority under the Federal statute or there is clear evidence to conclude that the Congress intended the agency to have the authority to preempt State law." Section 4(d) of the Executive Order requires that when an agency proposes to act through rulemaking to preempt State law, "the agency shall consult, to the extent practicable, with appropriate State and local officials in an effort to avoid such a conflict." Section 4(e) of the Executive Order requires that when an agency proposes to act through rulemaking to preempt State law, "the agency shall provide all affected State and local officials notice and an opportunity for appropriate participation in the proceedings."

Section 6(c) of Executive Order 13132 states that "no agency shall promulgate any regulation that has federalism implications and that preempts State law, unless the agency, prior to the formal promulgation of the regulation, (1) consulted with State and local officials early in the process of developing the proposed regulation; (2) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of the Office of Management and Budget a federalism summary impact statement, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met; and (3) makes available to the Director of the Office of Management and Budget any written communications submitted to the agency by State and local officials."

Because this regulation would address preemption of certain State laws, VA conducted prior consultation with State officials in compliance with Executive Order 13132. VA sent a letter to the National Council of State Boards of Nursing to state VA's intent to allow full practice authority to VA APRNs and for the National Council of State Boards of Nursing to notify every State Board of Nursing of VA's intent and to seek feedback from such Boards of Nursing.

In addition, VA solicited comments and input from State Boards of Nursing, through their representative national organization, the National Council of State Boards of Nursing (NCSBN). In response to its request for comments, VA received correspondence from the Executive Director and other relevant staff members within NCSBN, which agreed with VA's position that this rulemaking properly identifies the areas in VA regulations that preempt State laws and regulations. VA received no other comments from the NCSBN on this rulemaking. In response to VA's outreach to NCSBN, VA received numerous calls and correspondence from State and local officials in support of this proposed rule. Such State and local officials included State Senators from Georgia and Illinois, State Representatives from Florida, Ohio, Vermont, North Carolina, Georgia, and Illinois, County Commissioners from Nevada, Ohio, and North Carolina, and the State Comptroller and Secretary of State from Illinois, to name a few.

VA additionally engaged other relevant external groups on the proposed changes in this rulemaking, including the American Association of Nurse Anesthetists, American Association of Nurse Practitioners, American College of Surgeons, American Academy of Family Practice Physicians, American Society of Anesthesiologists, American Medical Association, Association of American Medical Colleges, The Joint Commission-Office of Accreditation and Certification, American Association of Retired Persons, American Legion, Blinded Veterans Association, Vietnam Veterans of America, American Women Veterans, Disabled American Veterans, Paralyzed Veterans of America, Veterans of Foreign Wars. VA also engaged the Senate and House Veterans Affairs Committees and the Senate and House Armed Services Committees.

Many external stakeholders expressed general support for VA's positions taken in this proposed rule, particularly with respect to full practice authority of APRNs in primary health care. However, we also received comments opposing full practice authority for CRNAs when providing anesthetics. To aid in VA's full consideration to this issue, VA encourages any comments regarding the proposed full practice authority. In this way, VA will be providing all affected State and local officials notice and an opportunity for appropriate participation in the proceedings.

VA's promulgation of this regulation complies with the requirements of Executive Order 13132 by (1) in the absence of explicit preemption in the authorizing statute, identifying where the exercise of State authority conflicts with the exercise of Federal authority under Federal statute; (2) limiting the preemption to only those areas where we find existence a conflict; (3) restricting the regulatory preemption to the minimum level necessary to achieve the objectives of the statute; (4) consulting with the State Boards of Nursing and other relevant external parties as indicated above; and (5) providing opportunity for comment through this rulemaking.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as proposed to be revised by this rulemaking, will represent VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures would be authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance will be superseded by this rulemaking.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would directly affect only individuals and would not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this amendment would be exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a "significant regulatory action," which requires review by OMB, as "any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined, and it has been determined to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov*, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm/*, by following the link for "VA Regulations Published From FY 2004 Through Fiscal Year to Date."

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are: 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Nabors II, Chief of Staff, Department of Veterans Affairs, approved this document on January 6, 2016.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Dated: May 20, 2016.

Michael Shores,

Acting Director, Office of Regulation Policy & Management, Office of Secretary, Department of Veterans Affairs.

For the reasons set forth in the preamble, we propose to amend 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

■ 2. Amend part 17 by adding an undesignated center heading and § 17.415 immediately after § 17.410 to read as follows:

Nursing Services

§ 17.415 Full practice authority for advanced practice registered nurses.

(a) *Advanced practice registered nurse (APRN).* For purposes of this section, an advanced practice registered nurse (APRN) is an individual who:

(1) Has completed a nationally-accredited, graduate-level educational program that prepares them for one of the four APRN roles of Certified Nurse Practitioner (CNP), Certified Registered Nurse Anesthetist (CRNA), Clinical Nurse Specialist (CNS), or Certified Nurse-Midwife (CNM);

(2) Has passed a national certification examination that measures knowledge in one of the APRN roles described in paragraph (a)(1) of this section;

(3) Has obtained a license from a State licensing board in one of four recognized APRN roles described in paragraph (a)(1) of this section; and

(4) Maintains certification and licensure as required by paragraphs (a)(2) and (3) of this section.

(b) *Full practice authority.* For purposes of this section, full practice authority means the authority of an APRN to provide services described in paragraph (d) of this section without the clinical oversight of a physician, regardless of State or local law restrictions, when that APRN is working within the scope of their VA employment.

(c) *Granting of full practice authority.* VA may grant full practice authority to an APRN subject to the following:

(1) Verification that the APRN meets the requirements established in paragraph (a) of this section; and

(2) Determination that the APRN has demonstrated the knowledge and skills necessary to provide the services described in paragraph (d) of this section without the clinical oversight of a physician, and is thus qualified to be privileged for such scope of practice.

(d) *Services provided by an APRN with full practice authority.* (1) Subject to the limitations established in paragraph (d)(2) of this section, the full practice authority for each of the four APRN roles includes, but is not limited to, providing the following services:

(i) A CNP has full practice authority to:

(A) Take comprehensive histories, provide physical examinations and other health assessment and screening activities, diagnose, treat, and manage patients with acute and chronic illnesses and diseases;

(B) Order, perform, supervise, and interpret laboratory and imaging studies;

(C) Prescribe medication and durable medical equipment;

(D) Make appropriate referrals for patients and families, and request consultations;

(E) Aid in health promotion, disease prevention, health education, and counseling as well as the diagnosis and management of acute and chronic diseases.

(ii) A CRNA has full practice authority to:

(A) Plan and initiate anesthetic techniques (general, regional, local) and sedation;

(B) Provide post-anesthesia evaluation and discharge;

(C) Order and evaluate diagnostic tests;

(D) Request consultations;

(D) Perform point-of-care testing; and

(E) Respond to emergency situations for airway management.

(iii) A CNS has full practice authority to provide diagnosis and treatment of health or illness states, disease management, health promotion, and prevention of illness and risk behaviors among individuals, families, groups, and communities within their scope of practice.

(iv) A CNM has full practice authority to provide a range of primary health care services to women, including gynecologic care, family planning services, preconception care (care that women veterans receive before becoming pregnant, including reducing the risk of birth defects and other problems such as the treatment of diabetes and high blood pressure), prenatal and postpartum care, childbirth, and care of a newborn, and treating the partner of their female patients for sexually transmitted disease and reproductive health, if the partner is also enrolled in the VA healthcare system or is not required to enroll.

(2) The full practice authority of an APRN is subject to the limitations imposed by the Controlled Substances Act, 21 U.S.C. 801 *et seq.*, and that APRN's State licensure on the authority to prescribe, or administer controlled substances, as well as any other limitations on the provision of VA care set forth in applicable Federal law and policy.

(e) *Preemption of State and local law.* To achieve important Federal interests, including but not limited to the ability to provide the same comprehensive care to veterans in all States under 38 U.S.C. 7301, this section preempts conflicting State and local laws relating to the practice of APRNs when such APRNs are working within the scope of their VA employment. Any State or local law, or regulation pursuant to such law, is without any force or effect on, and State or local governments have no legal authority to enforce them in relation to this section or decisions made by VA under this section.

(Authority: 38 U.S.C. 7301, 7304, 7402, and 7403)

[FR Doc. 2016–12338 Filed 5–24–16; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2014–0364; A–1–FRL–9936–62–Region 1]

Air Plan Approval; Connecticut; Sulfur Content of Fuel Oil Burned in Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut on April 22, 2014, with supplemental submittals on June 18,

2015 and September 25, 2015. This revision establishes sulfur in fuel oil content limits for use in stationary sources. In addition, the submittal includes minor clarifying revisions to the methods for sampling, emission testing, sample analysis, and reporting. The intended effect of this action is to propose approval of these requirements into the Connecticut SIP. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before June 24, 2016.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2014–0364 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: arnold.anne@epa.gov.*
3. *Fax:* (617) 918–0047.
4. *Mail:* "Docket Identification Number EPA–R01–OAR–2014–0364, Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier:* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Unit, 5 Post Office Square—Suite 100, (mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2014–0364. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov,* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

In addition, copies of the state submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency; Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Anne K. McWilliams, Air Quality Planning Unit, U.S. Environmental Protection Agency, New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, telephone (617) 918–1697, facsimile (617) 918–0697, email *mcwilliams.anne@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittals as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: November 5, 2015.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2016–12118 Filed 5–24–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R06–OAR–2015–0721; FRL–9946–85–Region 6]

Clean Air Act Redesignation Substitute for the Dallas-Fort Worth 1-Hour Ozone and 1997 8-Hour Ozone Nonattainment Areas; Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a redesignation substitute and make a finding of attainment for both the 1-hour ozone and the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) for the Dallas-Fort Worth nonattainment area (DFW area). The redesignation substitute demonstration states that the area has attained both the revoked 1-hour ozone and the revoked 1997 8-hour ozone NAAQS due to permanent and enforceable emission reductions, and that it will maintain those NAAQS for ten years from the date of the EPA's approval of this demonstration. Final approval of the redesignation substitute will result in the area no longer being subject to any remaining applicable anti-backsliding requirements and the nonattainment

new source review (NNSR) requirements associated with the revoked NAAQS. In general, final approval of the redesignation substitute would allow Texas to seek to revise the Texas SIP for the area to remove anti-backsliding measures from the active portion of its SIP if it can demonstrate, pursuant to the Clean Air Act (CAA) section 110(1), that such revision would not interfere with attainment or maintenance of any applicable NAAQS, or any other requirement of the CAA. However, the EPA believes that in this instance, Texas does not need to revise its SIP to alter certain provisions for NNSR effective in the DFW area.

DATES: Written comments must be received on or before June 24, 2016.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2015–0721, at *http://www.regulations.gov* or via email to *Donaldson.tracie@epa.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Ms. Tracie Donaldson, (214) 665–6633, *Donaldson.tracie@epa.gov*. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available at either location (*e.g.*, CBI).

FOR FURTHER INFORMATION CONTACT: Tracie Donaldson, (214) 665–6633, *Donaldson.tracie@epa.gov*. To inspect the hard copy materials, please contact Tracie Donaldson.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

I. Background

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm) averaged over a 1-hour period (44 FR 8202, February 8, 1979). Primary standards are set to protect human health while secondary standards are set to protect public welfare. In 1997 we revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period (62 FR 38856, July 18, 1997). In 2008 we revised the primary and secondary ozone NAAQS to 0.075 ppm, averaged over an 8-hour period (73 FR 16436, March 27, 2008). Ozone nonattainment areas are classified at the time of designation based on the area's "design value" (77 FR 30088, 30091, May 21, 2012 and CAA section 181(a)(1)). The design value is calculated from air quality data from the area for the 3 years preceding designation. The possible classifications are Marginal, Moderate, Serious, Severe, and Extreme. Nonattainment areas with a "lower" classification have ozone levels that are closer to the NAAQS than areas with a "higher" classification.

The EPA revoked the 1997 ozone NAAQS for all purposes effective April 6, 2015 (80 FR 12264, 12296, March 6, 2015). In that rule, the EPA established a regulatory list of "applicable requirements" that would apply as anti-backsliding requirements for the transition from the 1997 ozone NAAQS to the 2008 ozone NAAQS. *Id.* at 12298–99. The rule provides that an area initially subject to the anti-backsliding obligations for a revoked NAAQS will remain so until we approve (1) a redesignation to attainment for the area for the 2008 ozone NAAQS or (2) a "redesignation substitute," which serves as a successor to redesignation to attainment, for which the area would have been eligible were it not for revocation. *Id.* at 12304. As explained more fully in the preambles to the proposed and final rules, the redesignation substitute demonstration must show that the area (1) has attained that revoked NAAQS due to permanent and enforceable emission reductions and (2) will maintain that revoked NAAQS for 10 years from the date of EPA's approval of the showing. *See id.* at 12303–306; 78 FR 34178, 34222–223. The rule also provides that if, after notice and comment rulemaking, we approve a redesignation substitute for a revoked NAAQS, the state may request to revise its SIP to revise or remove provisions for NNSR for that revoked NAAQS and that other anti-backsliding obligations for that revoked NAAQS be shifted to contingency measures, provided that such action is consistent with CAA sections 110(l) and 193 (40 CFR 51.1105(b)(2)).

The DFW four-county 1-hour ozone nonattainment area consists of Collin, Dallas, Denton and Tarrant Counties. Under the 1990 CAA Amendments the area was classified as a moderate ozone nonattainment area for the 1-hour ozone NAAQS (November 6, 1991, 56 FR 56694 and CAA section 181(a)(1)). On March 20, 1998, we reclassified the four-county DFW nonattainment area to Serious (63 FR 8128). As discussed below, ambient air quality monitoring data for ozone indicates that the area attained and is continuing to maintain the 1-hour ozone standard.

The DFW nine-county 1997 8-hour ozone nonattainment area consists of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant counties. On April 30, 2004, the EPA designated and classified the nine-county DFW nonattainment area as a Moderate nonattainment area under the 1997 8-hour ozone standard with an attainment date of no later than June 15, 2010 (see 69 FR 23858 and 69 FR 23951) On December 20, 2010, we reclassified the nine-county DFW nonattainment area as Serious (75 FR 79302). As discussed below, ambient air quality monitoring data for ozone indicates that the area attained and is continuing to maintain the 1997 8-hour ozone standard.

Texas provided the "Redesignation Substitute Report for the Dallas-Fort Worth (DFW) One-Hour and 1997 Eight-Hour Ozone Standard Nonattainment Areas" (redesignation substitute report) to EPA on August 18, 2015. The submission also requested that EPA concur that the NNSR provisions relevant to the revoked 1997 ozone NAAQS would no longer apply. The report is available through *www.regulations.gov* (e-docket EPA–R06–OAR–2015–0609).

II. EPA's Evaluation of the DFW Redesignation Substitute Report for the 1-Hour Ozone NAAQS

To determine whether we should approve the 1-hour ozone redesignation substitute for the DFW area we evaluated the redesignation substitute report provided by Texas and the ambient ozone data for the area in the

EPA Air Quality System (AQS) database. To evaluate the report we used the applicable portions of our September 4, 1992 memo "Procedures for Processing Requests to Redesignate Areas to Attainment" (*www.epa.gov/ttn/oarpg/t5/memoranda/redesignmem090492.pdf*). A detailed discussion of our evaluation can be found in the Technical Support Document (TSD) for this action. The TSD can be accessed through *www.regulations.gov* (e-docket EPA–R06–OAR–2015–0721).

A. Has the area attained the revoked 1-hour ozone NAAQS due to permanent and enforceable emission reductions?

In a previous action we found that the DFW area had attained the 1-hour ozone standard (73 FR 61357). Ambient air quality found in the AQS database shows that the DFW area attained the 1-hour ozone standard at the end of 2006 and subsequent years and preliminary data from 2015 indicate that the area has continued to maintain the standard (Table 1).

TABLE 1—1-HOUR DESIGN VALUES FOR THE DFW FOUR-COUNTY NON-ATTAINMENT AREA

Years	1-Hour ozone design value
2004–2006	124 ppb.
2005–2007	124 ppb.
2006–2008	118 ppb.
2007–2009	115 ppb.
2008–2010	110 ppb.
2009–2011	110 ppb.
2010–2012	108 ppb.
2011–2013	108 ppb.
2012–2014	102 ppb.
Preliminary 2013–2015	102 ppb.

In 2006, all monitors in the DFW area had expected exceedances less than the threshold of 1.0 per year. A more detailed table of expected 1-hour ozone exceedances for the DFW monitors based on ozone data can be found in the TSD.

The DFW area redesignation substitute report provides information on emissions of nitrogen oxides (NO_X) and volatile organic compounds (VOCs) and regulations that reduced these emissions. NO_X and VOCs are ozone precursors. Texas identified control measures implemented as part of its attainment demonstration SIP that led to permanent and enforceable emissions reductions. Additionally, we have approved SIPs for the DFW area that document continuous emissions reductions due to permanent and enforceable measures for the 1-hour and 1997 8-hour ozone standards (62 FR 27964, May 22, 1997; 70 FR 18993 April 12, 2005; 73 FR 58475, October 7, 2008; 79 FR 67068, November 12, 2014). The TCEQ has implemented stringent and innovative regulations that address emissions of NO_X and VOCs. These include, but are not limited to:

- DFW Industrial, Commercial and Industrial (ICI) Major and Minor New Source Rules to control NO_X from multiple source categories. For Major sources, first implemented in the nine-county area on March 1, 2009 or March 1, 2010, depending on the source category. On January 1, 2017, Wise County will be added and control requirements for wood-fired boilers will also be added in all ten counties. For Minor sources, implemented in the nine-county area on March 1, 2009 for rich-burn gas-fired engines, diesel-fired engines, and dual-fuel engines; March 1, 2010 for lean-burn gas-fired engines.
- DFW Major Utility Electric Generation Source Rule to control NO_X. First implemented in March 2009, Wise County to be in added in January 2017.
- VOC Control Measures requiring reasonably available control technology (RACT) for VOC sources. First implemented in 2002 with counties added in 2002, 2009 and Wise County to be added in 2017.
- Vehicle Inspection and Maintenance implemented in Collin, Dallas, Denton and Tarrant Counties in 2002 and then expanded to Ellis Johnson, Kaufman, Parker and Rockwall Counties in 2003.
- Federal Area Non-road emissions limits are being phased in through 2018.
- Federal On-road emissions limits are being phased in through 2025.

Given our previous actions approving Texas SIPs pertaining to permanent and enforceable measures, we agree with Texas' conclusion that the area has attained the revoked 1-hour ozone NAAQS due to permanent and enforceable emission reductions. Many others are listed and a more detailed review can be found in the TSD.

B. Will the area maintain the revoked 1-hour ozone NAAQS for 10 years from the date of our approval?

To demonstrate that the DFW area will maintain the revoked 1-hour ozone NAAQS for 10 years from the date of our approval of the redesignation substitute, the redesignation substitute report provided information on projected emissions of ozone precursors for the four-county DFW 1-hour ozone NAAQS nonattainment area (Tables 2 and 3). The emission projections show that (1) NO_X and VOC emissions will continue to decrease through 2028. We reviewed this information and agree with the conclusion that the area will maintain the revoked 1-hour ozone NAAQS for 10 years from the date of our approval. More detail on our review can be found in the TSD.

TABLE 2—NO_X EMISSION PROJECTIONS FOR FOUR-COUNTY DFW AREA

[Tons per day]

Category	2012	2014	2017	2020	2023	2026	2028
Point Sources	8.47	8.79	29.47	29.57	29.65	29.71	29.76
Area Sources	28.54	29.41	27.79	25.96	24.9	24.68	24.68
On-Road Mobile Sources (MOVES 2014)	171.2	147.42	96.74	69.67	54.44	43.33	38.83
Non-Road Mobile Sources	76.95	72.29	61.56	53.31	48.87	46.36	45.66
Total	285.16	257.91	215.56	178.51	157.86	144.08	138.93

TABLE 3—VOC EMISSION PROJECTIONS FOR FOUR-COUNTY DFW AREA

[Tons per day]

Category	2012	2014	2017	2020	2023	2026	2028
Point Sources	11.11	11.02	11.52	11.71	11.86	11.99	12.08
Area Sources	218.9	224.51	218.56	211.43	209.81	210.69	211.77
On-Road Mobile Sources (MOVES 2014)	78.56	71.20	55.59	46.81	41.53	35.85	32.94
Non-Road Mobile Sources	41.39	36.48	32.59	31.08	31.04	31.52	32.08
Total	349.96	343.21	318.26	301.03	294.24	290.05	288.87

III. EPA's Evaluation of the DFW Redesignation Substitute Report for the 1997 8-Hour Ozone NAAQS

To determine whether we should approve the 1997 8-hour ozone redesignation substitute for the DFW area we evaluated the redesignation substitute report provided by Texas and the ambient ozone data for the area in the EPA Air Quality System (AQS) database. To evaluate the report we used the applicable portions of our September 4, 1992 memo "Procedures for Processing Requests to Redesignate Areas to Attainment" (*www.epa.gov/ttn/oarpg/t5/memoranda/redesignmem090492.pdf*). A detailed discussion of our evaluation can be found in the TSD for this action. The TSD can be accessed through *www.regulations.gov* (e-docket EPA–R06–OAR–2015–0721).

A. Has the area attained the revoked 1997 8-hour ozone NAAQS due to permanent and enforceable emission reductions?

In a previous action we found that the DFW area had attained the 1997 8-hour ozone standard (80 FR 52630). Ambient air quality found in the AQS database shows that the DFW area attained the 1997 8-hour ozone standard at the end of 2014 and preliminary data indicate that the area has continued to maintain the standard (Table 4).

TABLE 4—8-HOUR DESIGN VALUES FOR THE DFW AREA

Years	8-Hour ozone design value
2012–2014	84 ppb.
Preliminary 2013–2015	83 ppb.

In 2014, all monitors in the DFW area reported 8-hour ozone values of 84 ppb or less. A more detailed table of 8-hour ozone values for the DFW monitors can be found in the TSD.

The DFW area redesignation substitute report provides information on emissions of NO_X and VOCs and regulations that reduced these emissions. Texas identified control measures for both the 1-hour ozone and the 1997 8-hour ozone NAAQS that led to permanent and enforceable emission reductions. In our evaluation of the 1-hour ozone NAAQS, we list several existing measures in the DFW area. Please see that evaluation and the TSD for more detailed information. Given our previous actions approving Texas SIPs pertaining to permanent and enforceable measures, we agree with Texas' conclusion that the area has attained the 1997 8-hour ozone NAAQS due to permanent and enforceable emission reductions. The TCEQ has implemented stringent and innovative regulations that address emissions of NO_X and VOCs. Some of these are listed above as well as many others that can be found in the TSD in Section C. *Permanent and Enforceable Emissions Controls Implemented*

B. Will the area maintain the revoked 1997 8-hour ozone NAAQS for 10 years from the date of our approval?

To demonstrate that the DFW area will maintain the revoked 1997 8-hour ozone NAAQS for 10 years from the date of our approval of the redesignation substitute, the Texas report provided information on projected emissions of ozone precursors for the nine-county 1997 ozone NAAQS nonattainment area (Tables 5 and 6). The emission projections show that both NO_X and VOC emissions will continue to decrease through 2028. We reviewed this information and agree with the conclusion that the area will maintain the revoked 1997 8-hour ozone NAAQS for 10 years from the date of our approval. More detail on our review can be found in the TSD.

TABLE 5—NO_X EMISSION PROJECTIONS FOR NINE-COUNTY DFW AREA

[Tons per day]

Category	2012	2014	2017	2020	2023	2026	2028
Point Sources	30.80	31.25	62.38	62.49	62.57	62.64	62.71
Area Sources	33.60	34.77	32.01	28.98	27.37	26.97	26.93
On-Road Mobile Sources	216.74	188.65	129.19	95.95	77.87	64.62	59.75
Non-Road Mobile Sources	92.98	86.83	72.83	62.10	56.21	52.71	51.55
Total	374.12	341.50	296.41	249.52	224.02	206.94	200.94

TABLE 6—VOC EMISSION PROJECTIONS FOR NINE-COUNTY DFW AREA
[tons per day]

Category	2012	2014	2017	2020	2023	2026	2028
Point Sources	27.66	28.61	29.46	29.97	30.41	30.82	31.10
Area Sources	265.43	273.08	260.19	245.76	241.13	241.19	242.15
On-Road Mobile Sources	92.17	83.75	65.62	55.36	49.21	42.70	39.49
Non-Road Mobile Sources	46.87	41.34	36.73	34.78	34.55	35.00	35.53
Total	432.13	426.78	392.00	365.87	355.30	349.71	348.27

IV. Proposed Action

Based on the CAA's criteria for redesignation to attainment (CAA section 107(d)(3)(E)) and the regulation providing for a redesignation substitute (40 CFR 51.1105(b)), EPA is proposing to approve the redesignation substitute for the DFW area for both the revoked 1-hour ozone and the revoked 1997 8-hour ozone NAAQS due to permanent and enforceable emission reductions, and that it will maintain those NAAQS for ten years from the date of the EPA's approval of this demonstration. If EPA finalizes approval of the redesignation substitute, the DFW area would no longer be subject to any remaining applicable anti-backsliding requirements and the NNSR requirements associated with the revoked NAAQS. It would also allow the state to request a SIP revision to shift anti-backsliding obligations for the revoked ozone NAAQS to contingency measures provided that such action is consistent with CAA sections 110(1) and 193 (if applicable).

Texas's redesignation substitute report also requested that EPA concur that the NNSR provisions relevant to the revoked 1-hour ozone NAAQS and the revoked 1997 8-hour ozone NAAQS would no longer apply. As explained previously, if we approve a redesignation substitute, the state may request to revise its SIP to revise or remove provisions for NNSR for the revoked standard, provided that such action is consistent with CAA sections 110(l) and 193 (40 CFR 51.1105(b)(2)). However, the EPA believes that in this instance, Texas does not need to revise its SIP to alter some of the provisions for NNSR effective in the DFW area. The EPA reads Texas's NNSR SIP designations and classifications (and thus the related major source thresholds and offset ratios) to adjust as 40 CFR part 81 is updated and does not require further action by Texas if EPA were to finalize the redesignation substitute proposed here. This is explained in detail in Section D of the TSD. Because the DFW area is classified as Moderate nonattainment for the 2008 ozone NAAQS (as of the date of this Proposal), if the EPA finalizes this redesignation substitute, we believe that Texas's NNSR program would automatically change to requirements applicable for moderate areas in accordance with the DFW area classification for the 2008 ozone NAAQS for newly permitted sources. We note that finalization of this redesignation substitute does not relieve sources in the area of their obligations under previously established permit conditions.[1]

V. Statutory and Executive Order Reviews

Under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely proposes to approve a demonstration provided by the State of Texas and find that the DFW area is no longer subject to the anti-backsliding obligations for additional measures for the revoked 1-hour ozone and the revoked 1997 8-hour ozone NAAQS; and imposes no additional requirements. Accordingly, I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this proposed rule does not impose any additional enforceable duties, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a demonstration provided by the State of Texas and find that the DFW area is no longer subject to the anti-backsliding obligations for additional measures for the revoked 1-hour ozone and the revoked 1997 8-hour ozone NAAQS; and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

The proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Additionally, this proposed rule does not involve establishment of technical standards, and thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. Additionally, the proposed rule is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997).

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[1] *See* Final Implementation Rule for 2008 Ozone Standard, 80 FR 12264, at 12299, footnote 83 and at 12304, footnote 91.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 13, 2016.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2016–12229 Filed 5–24–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R06–OAR–2015–0609; FRL–9946–84–Region 6]

Clean Air Act Redesignation Substitute for the Houston-Galveston-Brazoria 1997 8-hour Ozone Nonattainment Area; Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a redesignation substitute and make a finding of attainment for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) for the Houston-Galveston-Brazoria ozone nonattainment area (HGB area). The redesignation substitute demonstration indicates that the area has attained the revoked 1997 8-hour ozone NAAQS due to permanent and enforceable emission reductions and that it will maintain that NAAQS for ten years from the date of the EPA's approval of this demonstration. Final approval of the redesignation substitute will result in the area no longer being subject to any remaining applicable anti-backsliding requirements and the nonattainment new source review (NNSR) requirements associated with the revoked NAAQS. In general, final approval of the redesignation substitute would allow Texas to seek to revise the Texas SIP for the area to remove anti-backsliding measures from the active portion of its SIP if it can demonstrate, pursuant to Clean Air Act (CAA) section 110(1), that such revision would not interfere with attainment or maintenance of any applicable NAAQS, or any other requirement of the CAA. However, the EPA believes that in this instance, Texas does not need to revise its SIP to alter certain provisions for NNSR effective in the HGB area.

DATES: Written comments must be received on or before June 24, 2016.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2015–0609, at *http://www.regulations.gov* or via email to *Donaldson.tracie@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Ms. Tracie Donaldson, (214) 665–6633, *Donaldson.tracie@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Tracie Donaldson, (214) 665–6633, *Donaldson.tracie@epa.gov.* To inspect the hard copy materials, please contact Tracie Donaldson.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

I. Background

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm) averaged over a 1-hour period (44 FR 8202, February 8, 1979). Primary standards are set to protect human health while secondary standards are set to protect public welfare. In 1997 we revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period (62 FR 38856, July 18, 1997). In 2008, we revised the primary and secondary ozone NAAQS to 0.075 ppm, averaged over an 8-hour period (73 FR 16436, March 27, 2008). Ozone nonattainment areas are classified at the time of designation based on the area's design value (77 FR 30088, 30091, May 21, 2012 and CAA section 181(a)(1)). The design value is calculated from air quality data from the area for the 3 years preceding designation. The possible classifications are Marginal, Moderate, Serious, Severe, and Extreme. Nonattainment areas with a "lower" classification have design values that are closer to the NAAQS than areas with a "higher" classification.

The EPA revoked the 1997 ozone NAAQS for all purposes effective April 6, 2015 (80 FR 12264, 12296, March 6, 2015). In that rule, the EPA established a regulatory list of "applicable requirements" that would apply as anti-backsliding requirements for the transition from the 1997 ozone NAAQS to the 2008 ozone NAAQS. *Id.* at 12298–99. The rule provides that an area initially subject to the anti-backsliding obligations for a revoked NAAQS will remain so until we approve (1) a redesignation to attainment for the area for the 2008 ozone NAAQS or (2) a "redesignation substitute", which serves as a successor to redesignation to attainment, for which the area would have been eligible were it not for revocation. *Id.* at 12304. As explained more fully in the preambles to the proposed and final rules, the redesignation substitute demonstration must show that the area (1) has attained the revoked NAAQS due to permanent and enforceable emission reductions and (2) will maintain that revoked NAAQS for 10 years from the date of EPA's approval of the showing. *See id.* at 12303–306; 78 FR 34178, 34222–223.

The rule also provides that if, after notice and comment rulemaking, we approve a redesignation substitute for a revoked NAAQS, the state may request to revise its SIP to revise or remove provisions for NNSR for that revoked NAAQS and that other anti-backsliding obligations for that revoked NAAQS be shifted to contingency measures, provided that such action is consistent with CAA sections 110(l) and 193 (40 CFR 51.1105(b)(2)).

The HGB area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller counties in Texas. On April 30, 2004, the EPA designated and classified the 8-county HGB as a Moderate nonattainment area under the 1997 ozone standard with an attainment date of no later than June 15, 2010 (see 69 FR 23858 and 69 FR 23951). On June 15, 2007, we received a request from the Governor of Texas seeking voluntary reclassification of the HGB area from a Moderate nonattainment area to a Severe nonattainment area under the 1997 ozone standard, which we approved on October 1, 2008 (73 FR 56983).[1] Subsequently, the State submitted the Reasonable Further Progress (RFP) and Attainment Demonstration (AD) SIPs for the HGB Severe area under the 1997 ozone standard. These RFP and AD SIPs were approved on January 2, 2014 (see 79 FR 51 and 79 FR 57, respectively).

Texas provided the "Redesignation Substitute Report for the Houston-Galveston-Brazoria 1997 Eight-Hour Standard Nonattainment Area" (redesignation substitute report) to EPA on August 18, 2015. The submission also requested that EPA concur that the NNSR provisions relevant to the revoked 1997 ozone NAAQS would no longer apply. The report is available through *www.regulations.gov* (e-docket EPA–R06–OAR–2015–0609).

II. EPA's Evaluation of the Houston Redesignation Substitute Report

To determine whether we should approve the 1997 8-hour ozone redesignation substitute for the HGB area, we evaluated the redesignation substitute report provided by Texas and the ambient ozone data for the area in the EPA Air Quality System (AQS) database. To evaluate the report we used the applicable portions of our September 4, 1992 memo, "Procedures for Processing Requests to Redesignate Areas to Attainment" (*www.epa.gov/ttn/oarpg/t5/memoranda/redesignmem090492.pdf*). A detailed discussion of our evaluation can be found in the Technical Support Document (TSD) for this action. The TSD can be accessed through *www.regulations.gov* (e-docket EPA–R06–OAR–2015–0609).

A. Has the area attained the revoked 1997 8-hour ozone NAAQS due to permanent and enforceable emission reductions?

In a previous action we found that the HGB area had attained the 1997 8-hour ozone standard (80 FR 81466). Ambient air quality found in the AQS database shows that the HGB area attained the 1997 8-hour ozone standard at the end of 2014, and preliminary data from 2015 indicate that the area has continued to maintain the standard (Table 1).

TABLE 1—8-HOUR DESIGN VALUES FOR THE HGB AREA

Years	8-hour ozone design value
2012–2014	80 ppb.
Preliminary 2013–2015	80 ppb.

In 2014, all monitors in the HGB area reported 8-hour ozone values of 80 ppb or less. A more detailed table of 8-hour ozone values for the HGB monitors can be found in the TSD.

The HGB area redesignation substitute report provides information on emissions of nitrogen oxides (NO_X) and volatile organic compounds (VOCs) and regulations that reduced these emissions. NO_X and VOCs are ozone precursors. Texas identified control measures implemented as part of its 1-hour ozone attainment demonstration SIP and its 1997 ozone attainment demonstration SIP that led to permanent and enforceable emission reductions. The 1-hour ozone attainment demonstration SIP was approved on September 6, 2006 (71 FR 52670). The 1997 ozone attainment demonstration SIP was approved on January 2, 2014 (79 FR 57). Additionally, we have approved SIPs for the HGB area that document continuous emissions reductions due to permanent and enforceable measures for the 1-hour and 1997 8-hour ozone standards (70 FR 7407, February 14, 2005; 74 FR 18298, April 22, 2009; 79 FR 51, January 2, 2014). The TCEQ has implemented stringent and innovative regulations that address emissions of NO_X and VOCs. These include, but are not limited to:

- Highly Reactive VOC Emissions Cap and Trade (HECT) implemented in 2007. This program affects cooling towers, process vents and flares and establishes an emission limit with a cap and trade in Harris County. The seven perimeter counties are subject to permit allowable limits and monitoring requirements.
- More stringent leak detection and repair (LDAR) requirements implemented in 2004.
- NO_X Mass Emissions Cap and Trade (MECT) Program phased in through April 2007 results in an overall 80% reduction from existing industrial sources and utility power plants.
- Vehicle Inspection and Maintenance implemented in Harris County in 2002 and then expanded to Brazoria, Fort Bend, Galveston and Montgomery Counties.
- Federal Area and Non-road emissions limits are being phased in through 2018.
- Federal On-road emissions limits are being phased in through 2025.

Given our previous actions approving Texas SIPs pertaining to permanent and enforceable measures, we agree with Texas' conclusion that the area has attained the 1997 8-hour ozone NAAQS due to permanent and enforceable emission reductions. Many others are listed and a more detailed review can be found in the TSD.

B. Will the area maintain the revoked 1997 8-hour ozone NAAQS for 10 years from the date of our approval?

To demonstrate that the HGB area will maintain the revoked 1997 8-hour ozone NAAQS for 10 years from the date of our approval of the redesignation substitute, the Texas report provided information on projected emissions of ozone precursors (Tables 2 and 3). The emission projections show that (1) NO_X emissions will continue to decrease through 2028 and (2) VOC emissions will remain relatively steady through 2028 with an overall increase of 8.4 tpd or 1.4%. We reviewed this information and agree with the conclusion that the area will maintain the revoked 1997 8-hour ozone NAAQS for 10 years from the date of our approval. Based on photochemical modeling analyses showing that the formation of ozone in the HGB area is more sensitive to NO_X than to VOC emissions, the small increase in VOC emissions during the 10-year maintenance period is expected to be more than offset by the 39% decrease in NO_X emissions during this same period. More detail on our review can be found in the TSD.

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[1] The attainment date for the HGB Severe nonattainment area was as expeditiously as practicable, but not later than June 15, 2019.

TABLE 2—NO_X EMISSION PROJECTIONS (TONS PER DAY)

Category	2012	2014	2017	2020	2023	2026	2028
Point Sources	98.5	119.67	127.39	127.71	128.03	128.35	128.56
Area Sources	21.91	22.52	23.23	23.61	23.47	23.50	23.59
On-Road Mobile Sources	159.08	124.64	82.96	61.06	48.94	40.24	37.04
Non-Road Mobile Sources	132.24	100.90	87.32	76.34	69.91	64.78	61.62
Total	411.73	367.73	320.90	288.72	270.35	256.87	250.81

TABLE 3—VOC EMISSION PROJECTIONS (TONS PER DAY)

Category	2012	2014	2017	2020	2023	2026	2028
Point Sources	84.06	110.72	115.02	115.65	116.26	116.94	117.41
Area Sources	310.07	317.75	328.20	335.07	337.81	341.16	344.75
On-Road Mobile Sources	74.51	61.48	47.36	40.38	36.12	31.71	28.99
Non-Road Mobile Sources	44.01	38.81	33.51	30.89	30.05	29.84	29.93
Total	512.65	528.76	524.09	521.99	520.24	519.65	521.08

III. Proposed Action

Based on the CAA's criteria for redesignation to attainment (CAA section 107(d)(3)(E)) and the regulation providing for a redesignation substitute (40 CFR 51.1105(b)), EPA is proposing to approve the redesignation substitute for the HGB area for the revoked 1997 8-hour ozone NAAQS and make a finding of attainment based on our determination that the demonstration provided by the State of Texas shows that the HGB area has attained the revoked 1997 8-hour ozone NAAQS due to permanent and enforceable emission reductions, and that it will maintain that NAAQS for ten years from the date of the EPA's approval of this demonstration. If EPA finalizes approval of the redesignation substitute, the HGB area would no longer be subject to any remaining applicable anti-backsliding requirements and the NNSR requirements associated with the revoked NAAQS. It would also allow the state to request a SIP revision to shift anti-backsliding obligations for the revoked ozone NAAQS to contingency measures provided that such action is consistent with CAA sections 110(1) and 193 (if applicable).

Texas's redesignation substitute report also requested that EPA concur that the NNSR provisions relevant to the revoked 1997 ozone NAAQS would no longer apply. As explained previously, if we approve a redesignation substitute, the state may request to revise its SIP to revise or remove provisions for NNSR for the revoked standard, provided that such action is consistent with CAA sections 110(l) and 193 (40 CFR 51.1105(b)(2)). However, the EPA believes that in this instance, Texas does not need to revise its SIP to alter some of the provisions for NNSR effective in the HGB area. The EPA reads Texas's NNSR SIP designations and classifications (and thus the related major source thresholds and offset ratios) to adjust as 40 CFR part 81 is updated and does not require further action by Texas if EPA were to finalize the redesignation substitute proposed here. This is explained in detail in Section D of the TSD. Because the HGB area is classified as Marginal nonattainment for the 2008 ozone NAAQS (as of the date of this Proposal), if the EPA finalizes this redesignation substitute, we believe that Texas's NNSR program would automatically change to requirements applicable for marginal areas in accordance with the HGB area classification for the 2008 ozone NAAQS for newly permitted sources. We note that finalization of this redesignation substitute does not relieve sources in the area of their obligations under previously established permit conditions.[2]

IV. Statutory and Executive Order Reviews

Under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely proposes to approve a demonstration provided by the State of Texas and find that the HGB area is no longer subject to the anti-backsliding obligations for additional measures for the revoked 1997 8-hour ozone NAAQS; and imposes no additional requirements. Accordingly, I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this proposed rule does not impose any additional enforceable duties, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal

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[2] *See* Final Implementation Rule for 2008 Ozone Standard, 80 FR 12264, at 12299, footnote 83 and at 12304, footnote 91.

Government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a demonstration provided by the State of Texas and find that the HGB area is no longer subject to the anti-backsliding obligations for additional measures for the revoked 1997 8-hour ozone NAAQS; and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

The proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Additionally, this proposed rule does not involve establishment of technical standards, and thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. Additionally, the proposed rule is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 13, 2016.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2016–12230 Filed 5–24–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2016–0004; FRL–9946–97–OAR]

RIN 2060–AS72

Public Hearing for Standards for 2017 and Biomass-Based Diesel Volume for 2018 Under the Renewable Fuel Standard Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; announcement of public hearing.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a public hearing to be held in Kansas City, Missouri on June 9, 2016 for the proposed rule "Renewable Fuel Standard Program: Standards for 2017 and Biomass-Based Diesel Volume for 2018." This proposed rule will be published separately in the **Federal Register**. The pre-publication version of this proposal can be found at *https://www.epa.gov/renewable-fuel-standard-program/standards-2017-and-biomass-based-diesel-volume-2018-documents.* In the separate notice of proposed rulemaking, EPA has proposed amendments to the renewable fuel standard program regulations that would establish annual percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and renewable fuels that would apply to all gasoline and diesel produced in the U.S. or imported in the year 2017. In addition, the separate proposal includes a proposed biomass-based diesel applicable volume for 2018.

DATES: The public hearing will be held on June 9, 2016 at the location noted below under **ADDRESSES**. The hearing will begin at 9:00 a.m. and end when all parties present who wish to speak have had an opportunity to do so. Parties wishing to testify at the hearing should notify the contact person listed under **FOR FURTHER INFORMATION CONTACT** by May 31, 2016. Additional information regarding the hearing appears below under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The hearing will be held at the following location: Sheraton Kansas City Hotel at Crown Center, 2345 McGee Street, Kansas City, Missouri, 64108 (phone number 866–841–8134). A complete set of documents related to the proposal will be available for public inspection through the Federal eRulemaking Portal: *http://www.regulations.gov,* Docket ID No. EPA–HQ–OAR–2016–0004. Documents can also be viewed at the EPA Docket Center, located at 1301 Constitution Avenue NW, Room 3334, Washington, DC between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Julia MacAllister, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4131; Fax number: (734) 214–4816; Email address: *RFS_Hearing@epa.gov.*

SUPPLEMENTARY INFORMATION: The proposal for which EPA is holding the public hearing will be published separately in the **Federal Register**. The pre-publication version can be found at *https://www.epa.gov/renewable-fuel-standard-program/standards-2017-and-biomass-based-diesel-volume-2018-documents.*

Public Hearing: The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposal (which can be found at *https://www.epa.gov/renewable-fuel-standard-program/regulations-and-volume-standards-under-renewable-fuel-standard*). The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Written comments must be received by the last day of the comment period, as specified in the notice of proposed rulemaking.

How can I get copies of this document, the proposed rule, and other related information?

The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2016–0004. The EPA has also developed a Web site for the Renewable Fuel Standard (RFS) program, including the notice of proposed rulemaking, at the address given above. Please refer to the notice of proposed rulemaking for detailed information on accessing information related to the proposal.

Dated: May 19, 2016.

Christopher Grundler,

Director, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2016–12358 Filed 5–24–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 6, 7, 14, 20, 64, and 67

[CG Docket No. 16–145 and GN Docket No. 15–178; FCC 16–53]

Transition From TTY to Real-Time Text Technology

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes amendments to its rules to facilitate a transition from outdated text telephone (TTY) technology to a reliable and interoperable means of providing real-time text (RTT) communication for people who are deaf, hard of hearing, speech disabled, and deaf-blind over Internet Protocol (IP) enabled networks and services.

DATES: Comments are due July 11, 2016 and Reply Comments are due July 25, 2016.

ADDRESSES: You may submit comments, identified by CG Docket No. 16–145, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's Web site *http://apps.fcc.gov/ecfs//.* Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and CG Docket No. 16–145.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

For detailed instructions for submitting comments and additional information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Suzy Rosen Singleton, Consumer and Governmental Affairs Bureau, at 202–510–9446 or email *Suzanne.Singleton@fcc.gov,* or Robert Aldrich, Consumer and Governmental Affairs Bureau, at 202–418–0996 or email *Robert.Aldrich@fcc.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's ECFS. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial Mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington, DC 20554.

This is a summary of the Commission's document FCC 16–53, Transition from TTY to Real-Time Text Technology, Notice of Proposed Rulemaking, adopted April 28, 2016, and released April 29, 2016, in CG Docket No. 16–145 and GN Docket No. 15–178. The full text of document FCC 16–53 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. Document FCC 16–53 can also be downloaded in Word or Portable Document Format (PDF) at: *https://www.fcc.gov/general/disability-rights-office-headlines.* This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. 47 CFR 1.1200 *et seq.* Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with 47 CFR 1.1206(b). In proceedings governed by 47 CFR 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

Document FCC 16–53 seeks comment on proposed rule amendments that may result in modified information collection requirements. If the Commission adopts any modified information collection requirements, the Commission will publish another notice in the **Federal Register** inviting the public to comment on the requirements, as required by the Paperwork Reduction Act. Public Law 104–13; 44 U.S.C. 3501–3520. In addition, pursuant to the Small Business Paperwork Relief Act of

2002, the Commission seeks comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. Public Law 107–198; 44 U.S.C. 3506(c)(4).

Synopsis

Introduction

1. In document FCC 16–53, the Commission proposes amendments to its rules to facilitate a transition from outdated text telephone (TTY) technology to a reliable and interoperable means of providing real-time text (RTT) communication for people who are deaf, hard of hearing, speech disabled, and deaf-blind over Internet Protocol (IP) enabled networks and services. RTT is a mode of communication that permits text to be sent immediately as it is being created. As a technology designed for today's IP environment, and one that allows the use of off-the-shelf rather than specialized end user devices, RTT can, for the first time in our nation's history, enable people with disabilities who rely on text to use text-based communications services that are fully integrated with mainstream communications services and devices used by the general public. In addition, RTT's advanced features, including its speed, full character set, reliability, and ease of use, can significantly improve access to emergency services for people with disabilities and help reduce reliance on telecommunications relay services.

2. In order to facilitate an effective and seamless transition to RTT, the Commission proposes to amend its rules as follows:

- The Commission proposes to replace its rules governing the obligations of wireless service providers and equipment manufacturers to support TTY technology with rules defining the obligations of these entities to support RTT over IP-based wireless voice services.
- The Commission proposes that, for wireless service providers' and equipment manufacturers' support of RTT to be deemed sufficient for compliance with the Commission's rules:
- RTT communications must be interoperable across networks and devices, and this may achieved through adherence to Internet Engineering Task Force (IETF) Request for Comments 4103, Real-time Transport Protocol Payload for Text Conversation (2005) (RFC 4103), as a "safe harbor" standard for RTT;
- RTT communications must be backward compatible with TTY technology, until the Commission determines that such compatibility is no longer necessary; and
- Wireless services and equipment capable of sending, receiving and displaying text must support specific RTT functions, features, and capabilities necessary to ensure that people with disabilities have accessible and effective text-based communications service.
- The Commission proposes establishing timelines for implementation of RTT as follows:
- For Tier I wireless service providers, and manufacturers that provide devices for such services, implementation of RTT would be required by December 31, 2017.
- For non-Tier I wireless providers, and manufacturers of equipment used with such services, the Commission seeks comment on an appropriate timeline for implementation of RTT.
- Finally, the Commission seeks comment on whether to amend its rules to place comparable responsibilities to support RTT on providers and manufacturers of wireline IP services and equipment that enable consumers to initiate and receive communications by voice.

3. The Commission believes that the above proposals for the migration from TTY to RTT technology will ensure that people with disabilities can fully utilize and benefit from twenty-first century communications technologies as our nation migrates from legacy analog systems to IP-based networks and services. The Commission seeks comment on the tentative conclusions, proposals, and analyses put forth in document FCC 16–53, as well as on any alternative approaches.

Background

4. The Commission has adopted specific rules requiring support for TTY technology by providers and manufacturers of telecommunications and advanced communications services and devices. *See* 47 CFR 6.5, 7.5, 14.20, 14.21, 20.18(c), 64.601(a)(1), (b), 64.603, 64.604(a)(3)(v), (c)(5)(iii). On June 12, 2015, AT&T filed a petition requesting that the Commission initiate a rulemaking proceeding to authorize the substitution of RTT for TTY technology, as an accessibility solution for use with IP-based voice communications networks and services.

Limitations of TTY Technology and the Need for a Rulemaking

5. TTY technology was developed more than fifty years ago as a means of enabling people who are deaf, hard of hearing, and speech disabled to use the legacy Public Switched Telephone Network (PSTN). The record shows the significant challenges that TTY technology presents on IP-based communication networks and platforms, including its susceptibility to packet loss, compression techniques that distort TTY tones, and echo or other noises that result from the transmission of the Baudot character string. These deficiencies can degrade quality, augment error rates, and hurt the reliability of telephone communications. When these shortcomings occur, synchronization of the conversation also can be impeded, and the transmission can become garbled until it is restored. For TTY users, this not only is frustrating, but also can present a dangerous situation in an emergency, when effective communication is critical. TTYs are also criticized for their slow transmission speed, their dependency on turn-taking, their use of significant network bandwidth, their lack of interoperability with dedicated text devices used in other countries, and their limited character set, the latter of which can make communicating certain information, such as email and web addresses, difficult or impossible.

6. The record shows that these technical and functional limitations of TTY technology have resulted in a steady decline in its use in favor of other forms of text communication that offer greater ease of use, improved features, and practicability. This trend is also revealed in a survey of the participants in field trials conducted to assess the user experience of the quality and interoperability of RTT and alternatives. Reports by the Interstate Telecommunications Relay Services (TRS) Fund Administrator, Rolka Loube, confirm decreasing reliance on TTYs; over the past 7½ years, its monthly filings show a drop of nearly 80 percent in the number of minutes attributed to TTY-initiated relay calls. Rolka Loube, TRS Fund Performance Status Report, *http://www.rolkaloube.com/#!formsreport/c1zvl.* TTYs are hardly ever used with wireless services. Instead, consumers have opted for applications that are native to the IP environment, such as short messaging services (SMS), instant messaging, email, IP Relay Service, and various social media applications.

7. Support for Commission action comes from the industry, the consumers, and the Commission's federal advisory bodies that have addressed this matter over the past several years. Most recently, in October 2015 and February 2016, the

Commission's Disability Advisory Committee (DAC) submitted two sets of recommendations that support the Commission's exploration into the use of RTT or other text-based solutions as a replacement for TTY technology. Prior to this, in March 2013, the Commission's Emergency Access Advisory Committee (EAAC) recommended replacing TTY support requirements with requirements for direct access to 911 services via IP-based text communications that include real-time text.

Proposals for RTT Implementation

8. The Commission proposes to amend its rules to replace the rules governing the obligations of wireless providers and manufacturers to support TTY technology with rules defining the obligations of these entities to support RTT over IP-based wireless voice services. The Commission tentatively concludes that the technical and functional limitations of TTYs make this technology unsuitable as a long-term means to provide full and effective access to IP-based wireless telephone networks, and that there is a need to provide individuals who rely on text communication with a superior accessibility solution for the IP environment. The Commission further tentatively concludes that RTT can best achieve this goal because it can be well supported in the wireless IP environment, will facilitate emergency communications to 911 services, allows for more natural and simultaneous interactions on telephone calls, will largely eliminate the need to purchase specialized or assistive devices that connect to mainstream technology, and may reduce reliance on telecommunications relay services.

RTT Support by Wireless Providers and Manufacturers

Transmission of RTT Over IP-Based Wireless Services

9. To achieve an effective and timely transition to RTT, the Commission proposes to require RTT support at a specified time in the future, but also seeks comment on the extent to which there should be an interim period preceding such deadline, during which covered entities would be allowed to provide either RTT or TTY support on IP-based wireless services. The Commission believes that establishing an RTT requirement is necessary to ensure that people with disabilities continue to have effective access to wireless communications services as these services make the transition to an all-IP environment, and seeks comment on this approach. To this end, the Commission proposes the following revisions to its rules:

- Amend § 20.18(c) to require wireless IP-based voice service providers to be capable of transmitting 911 calls from individuals who are deaf, hard of hearing, deaf-blind, or speech disabled through RTT technology, in lieu of transmitting 911 calls from TTYs over IP networks;
- Amend part 64 to require wireless interconnected voice-over-IP (VoIP) service providers to support TRS access through RTT technology, including 711 abbreviated dialing access, in lieu of supporting TRS access via TTY technology;
- Amend parts 6 and 7 to require providers of wireless interconnected VoIP services subject to these rules to provide and support RTT, if readily achievable, in lieu of providing connectability and compatibility with TTYs; and
- Amend part 14 to require providers of wireless VoIP services subject to these rules to provide and support RTT, unless this requirement is not achievable, in lieu of providing connectability and compatibility with TTYs.

End User Device Support for RTT

10. The Commission believes that the availability of RTT-capable end user devices for users is essential in order to facilitate the use of RTT for emergency purposes, fully integrate RTT capability into the IP environment, and ensure that RTT users have the same range of device choices offered to the general public for voice communications. To this end, the Commission further proposes to amend its rules in the following manner to address the ability of wireless devices used by consumers to support RTT.

11. *Wireless service providers.* For providers of IP-based voice services, the Commission proposes to:

- Amend § 20.18(c), which requires the transmission of 911 calls from TTYs, and parts 6, 7, and 14 to require that, to the extent a wireless provider issues design specifications, purchases for resale to users, or otherwise authorizes new handsets or other text-capable end user devices for use with its IP-based voice services, the provider shall ensure that such devices have the ability to send, receive and display RTT.
- If it is not readily achievable (under parts 6 and 7) or achievable (under part 14) to incorporate RTT capability within such wireless devices, the wireless provider shall ensure that such devices are compatible with RTT-equipped stand-alone devices or software applications, "if readily achievable" for equipment subject to parts 6 and 7 of the rules, and "unless not achievable" for equipment subject to part 14 of the rules.

12. *Manufacturers.* For manufacturers of wireless handsets or other wireless text-capable end user devices used with IP-based voice services, the Commission proposes to amend parts 6, 7, and 14 to require such manufacturers to:

- Ensure that their devices have the ability to send, receive, and display RTT, if readily achievable for equipment subject to parts 6 and 7 of the rules, and unless not achievable for equipment subject to part 14.
- If it is not readily achievable (under parts 6 and 7) or achievable (under part 14) to incorporate RTT capability within such devices, ensure that such devices are compatible with RTT-equipped stand-alone devices or software applications, if readily achievable for equipment subject to parts 6 and 7 of the rules, and unless not achievable for equipment subject to part 14 of the rules.

13. The Commission's proposal to create an affirmative requirement for RTT support is consistent with past Commission actions and Congressional mandates to ensure that, as communications networks evolve to incorporate new technologies, accessibility safeguards be amended to ensure that people with disabilities continue to have effective access to communications. The purpose of section 716, added to the Communications Act of 1934, as amended (Act), by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), Public Law 111–260, 124 Stat. 2751 (October 8, 2010), is to ensure that "*advanced* communications services" (ACS) that incorporate new technologies are accessible to individuals with disabilities. 47 U.S.C. 617(a)(1) (emphasis added). As explained by the Senate committee report on the CVAA, the CVAA's purpose is "to update the communications laws" to ensure accessibility, because, since the previous update in 1996 (when section 255 of the Act was added), "[i]nternet-based and digital technologies are now pervasive . . . [and] the extraordinary benefits of these technological advances are sometimes not accessible to individuals with disabilities." S. Rep. No. 111–386 at 1–2 (2010). Thus, for example, section 716(d) of the Act expressly prohibits ACS providers from "install[ing] network features, functions or capabilities that impede accessibility or usability." 47 U.S.C. 617(d). By requiring wireless providers and manufacturers, as they deploy IP-based

voice services, equipment, and networks, to implement RTT as a state-of-the-art accessibility technology, the Commission will ensure not only that such networks do not impede accessibility, but that the benefits of technological advances are accessible to individuals with disabilities as Congress intended.

14. The Commission's proposals are also intended to avoid repetition of past failures to build in accessibility at the outset of technological changes, which led to long delays in providing access to new communications technologies for people with disabilities. For example, in the mid-1990s, despite the public safety dangers of leaving people with disabilities behind as the wireless industry made its transition from analog to digital technology, repeated delays resulted in the lack of access to digital wireless services by TTY users for over six years, well past the rise in popularity of digital technology with the general public. Similarly, it was not until 2005 that digital handsets began integrating hearing aid compatibility, again despite the introduction of these handsets in the mid-1990s. Each of these delays imposed considerable hardships on people with disabilities, who remained without digital wireless access—and without emergency access via wireless networks—for lengthy periods of time after these technologies became available to everyone else. Additionally, industry efforts that were needed to eventually achieve such access—which took place very late in the design and development process of building of such phones—proved more costly and burdensome than would likely have been the case had accessibility been incorporated from the outset.

15. The Commission has noted that communication networks are rapidly transitioning away from the historic provision of time-division multiplexed (TDM) services running on copper to new, all-IP multimedia networks using copper, co-axial cable, wireless, and fiber as physical infrastructure. As these changes take place, the Commission seeks to ensure that its accessibility rules for IP-based voice networks achieve the *early* integration of accessibility features, so that people with disabilities can enjoy communications services as they emerge, along with the general population. The Commission believes that amending its rules to require support of RTT at this time is likely to create greater certainty for companies that have expressed an interest in deploying RTT, and provide a supportive regulatory landscape in which to do so. With the action taken today, the Commission expects that covered entities will have the necessary incentives to invest and innovate to improve products employing RTT functionalities, promoting more effective access to 911 services and other communications for individuals with disabilities.

16. The Commission seeks comment on its tentative conclusions, proposals, and analysis, including the costs and technical feasibility of the proposed rule amendments, and on any proposed alternatives. The Commission notes that in its text-to-911 proceeding, it determined that significant benefits could be attained by enabling people with disabilities to use text to access emergency services by phone. The Commission has recognized that as our nation ages, the number of Americans who may need alternatives to voice telephone communications is likely to increase. The Commission believes that establishing a requirement to ensure that RTT is incorporated in wireless IP-based services and devices as these are designed and developed will reduce the overall costs of incorporating this access feature, while ensuring that people with disabilities are not left behind in the transition to new technology. The Commission seeks comment on whether these assumptions are correct and generally on the benefits to be derived from incorporating RTT functionalities into wireless services and end user devices, including the benefits that may accrue for improving access to 911 services.

17. In a joint filing, three technology research centers, the Rehabilitation Engineering Research Center on Telecommunications Access, Trace Research & Development Center at the University of Wisconsin-Madison, and the Gallaudet University Technology Access Program (Technology Research Centers), contend that the implementation of RTT would not add any hardware costs to support RTT, if limited to products used for receiving and displaying RTT that already have a display large enough to display multiple lines of text (or software designed to run on a multi-line display) and a mechanism for generating text for other purposes. They and others point out that many Internet-enabled terminal devices, including smartphones, tablets, and VoIP desk phones, already have such text generation and display capabilities. Costs also appear to be minimized if incorporated in the beginning of the design process. The Commission seeks comment on the merits of these assumptions, and on how they would be affected by the outcome of the issues raised for comment in this section regarding the scope of an equipment capabilities requirement.

Timelines

18. *Larger wireless carriers.* The Commission seeks comment on when its rules requiring implementation of RTT should become effective. The Commission proposes that this be completed by Tier I wireless service providers, which offer nationwide service, no later than December 31, 2017. *See* 47 CFR 20.19(a)(3)(v) for a definition of Tier I providers. The Commission seeks comment on whether the proposed date will afford sufficient time for this category of providers to achieve compliance with the rules proposed in document FCC 16–53. Alternatively, the Commission seeks comment on whether it would be preferable to establish a specified interim period of time—prior to the deadline set for an RTT requirement—during which Tier I covered entities would be allowed to support RTT over their IP facilities if they are unable to support TTYs. The Commission asks parties that believe such interim period is necessary to explain whether and how such period would be needed to afford additional flexibility during the transition to RTT technology. The Commission further asks commenters who disagree with the Commission's proposed deadline of December 31, 2017, for Tier I carriers to explain why additional time would be needed to achieve deployment of RTT.

19. *Smaller wireless carriers.* The Commission proposes that smaller wireless carriers, to be defined as those that do not fall into Tier I, be given an additional period of time to achieve compliance with the proposed RTT support requirements beyond the deployment date proposed for the larger, Tier I carriers. The Commission seeks comment on what would be an appropriate extension of time, as well as whether the Commission should distinguish between Tier II (non-nationwide mid-sized commercial mobile radio service (CMRS) providers with greater than 500,000 subscribers) and Tier III carriers (non-nationwide small CMRS providers with no more than 500,000 subscribers) in determining appropriate benchmarks for these providers. Alternatively, the Commission seeks comment on whether it would be more appropriate to tie the obligations of these carriers to the timing of their transition to IP-based wireless technologies, such as IMS/VoLTE or 4G services. Finally, to what extent would it be appropriate to

establish an interim transitional period, akin to what is discussed above for Tier I carriers, during which such smaller carriers would be allowed, but not required, to support RTT in lieu of TTY technology?

20. *End user devices.* The Commission proposes that the timeline established for RTT support over IP-based wireless services apply as well to handsets and other text-capable end user devices for use with such services, and thus proposes that any such handsets or devices sold after December 31, 2017, have RTT capability, and seeks comment on this proposal. Making this requirement effective at the same time that wireless services are required to become RTT-capable would ensure that sufficient handsets are available for people with disabilities to have access to text communications in real time after the existing orders waiving service provider requirements for TTY support expire. Will the proposed December 2017 deadline for the Tier I service providers allow sufficient time to incorporate RTT capability in end user devices? Is it more appropriate for the deadline established for end user devices to apply to the date on which new devices are manufactured, rather than first made available to the general public?

21. In addition to requiring the inclusion of RTT support on new terminal devices, consistent with statutory requirements for telecommunications access and access to advanced communications services and equipment, should there be a requirement to add RTT capability to end user devices already in service at the compliance deadline, at "natural opportunities," previously defined by the Commission to occur upon the redesign of a product model or service, new versions of software, upgrades to existing features or functionalities, significant rebundling or unbundling of product and service packages, or any other significant modification that may require redesign? Further, to the extent that it is not achievable under section 716 of the Act or readily achievable under section 255 of the Act to make an end user device accessible through RTT, by what date should such device be made compatible with a stand-alone RTT device or app to the extent that these become available?

22. The Commission also seeks comment on the period of time, if any, that over-the-top applications or plug-ins for RTT should be permitted as an interim measure to achieve RTT on end user devices, and if permitted as over-the-top applications, whether manufacturers and service providers should be required to pre-install such applications on devices before they are sold to the public. Specifically, the Commission proposes that the use of an over-the-top application as an interim solution, such as that which AT&T is achieving, will be sufficient to constitute compliance with the RTT requirement by December 31, 2017, and seeks comment on this tentative conclusion. At the same time, the Commission asks to what extent the Commission should be concerned that the many advantages of RTT as a universal text solution will not be achieved until RTT is incorporated as a native function in end user devices, or at a minimum, pre-installed by the manufacturer or service provider as a "default" application. The Commission seeks comment on whether this concern should guide its final rules, and further seeks comment on what functionalities of RTT, and what associated benefits of RTT, if any, would be unavailable if it is initially implemented as an over-the-top application rather than as native functionality. With this in mind, the Commission asks commenters to provide specific parameters for and factual showings justifying any timelines they propose for transitioning to native RTT functionality in covered devices.

Advantages of RTT

23. *IP-Based Technology.* There is general agreement among AT&T and those commenting on its petition that RTT is an effective alternative to TTY technology for the IP environment. Commenters concur that RTT is designed for today's packet-switching environment and offers an expanded array of features to enable more robust user conversations, including real-time editing of text and full-duplex functionality (*i.e.,* both parties can communicate simultaneously). Various commenters state that RTT allows for the intermixing of speech with text, is more spectrally efficient than TTY, will be superior to TTY in every way—transmission speed, latency, reliability, features, privacy, conversation form, and ease of use—will facilitate the transition to end-to-end Next Generation 911 (NG911), and will meet the needs of legacy TTY users during the transition. The Commission tentatively concludes that deployment of RTT on IP networks will offer functionality greatly superior to that of TTY technology, and it seeks comment on this tentative conclusion.

24. *Off-the-Shelf Devices.* Commenters also state that RTT will allow consumers with disabilities to make calls using the built-in functionality of a wide selection of off-the-shelf devices, including smartphones, tablets, computers and other Internet-enabled devices that have the ability to send, receive, and display text. These parties point out that this can eliminate the high costs and other challenges involved in finding, purchasing, and making effective use of assistive devices such as TTYs. The Commission tentatively concludes that the ability to acquire off-the-shelf RTT-capable devices will be beneficial for text communication users, and seeks comment on this tentative conclusion.

25. *Substitution for Telecommunications Relay Services.* Section 225 of the Act directs the Commission to ensure that TRS is available "in the most efficient manner." 47 U.S.C. 225(b)(1). The record suggests that, because RTT will provide greater opportunities for direct, point-to-point text communication and can enable text to be intermixed with voice, it can reduce reliance on relay services and thereby provide consumers with greater privacy and independence, while reducing overall costs for telecommunications users. For example, one form of TRS, captioned telephone relay service (CTS), currently uses communication assistants (CAs) to enable people who are hard of hearing to receive captions of conversation spoken by other parties to a telephone call. The Commission expects that RTT users might not need these services if they were able to receive RTT over VoIP phones to supplement incoming voice conversations for difficult-to-understand words. Similarly, the Commission predicts that people with speech disabilities who can type will be able to use standard phones capable of generating RTT to communicate with other persons who also have VoIP phones with displays. However, the Commission notes that these results are likely to be achieved only to the extent that RTT capabilities in end user devices truly become ubiquitous—*i.e.,* are enabled by default in all or most wireless (and eventually wireline) terminal equipment. To the extent that RTT is "supported" but not fully incorporated as a native or default function of devices—and is merely available for users to download or install—commenters suggest that the universal reach of text as a substitute for relay services will be less likely to be achieved, because many individuals who do not rely on text may not install this extra functionality. The Commission seeks comment on whether these assumptions are correct.

26. *Improvement of Telecommunications Relay Services.* In addition to substituting for TRS in some

circumstances, the Commission believes that RTT can be used to enhance the ability of TRS to provide functionally equivalent telephone service. For example, it would appear that for text-based forms of TRS, RTT can improve the speed and reliability of communications in an IP environment. The Technology Research Centers further note that individuals may be able to use RTT to supplement communications in sign language with text during video relay service (VRS) calls, reducing the time needed for CAs to convey detailed information, such as addresses and URLs. The Commission seeks comment on these assertions and whether there are other ways that RTT can improve the provision of TRS for its users.

27. *Advantages Over Messaging-Type Services.* Text-based accessibility solutions include RTT, SMS, instant messaging and similar chat-type functions, and email. With the exception of RTT, each of these technologies requires parties to complete their messages and to press "send," "enter," or a similar key to transmit the message to its recipient. By contrast, when a message is sent in real time, it is immediately conveyed to and received by the call recipient as it is being composed. Several commenters maintain that RTT is the only type of text communication that allows a natural flow of conversation akin to voice telephone calls, and therefore the only form that meets the criterion of functional equivalency. Without the turn-taking and delays characteristic of messaging-type communications, these parties state, RTT gives call recipients "an opportunity to follow the thoughts of the sender as they are formed into words." The Technology Research Centers note what they consider additional drawbacks of these alternatives: The delivery of messages over SMS is not guaranteed; instant messaging is not interoperable; and certain features, such as conference calling, are not available via instant messaging across multiple providers.

28. *Access to 911 Emergency Services.* Perhaps the most compelling case to be made in favor of RTT over messaging-type services is in the context of emergency calls to 911. Recent studies reveal a preference for RTT in simulated emergency situations by 100 percent of participants. According to the Technology Research Centers, a principal reason for preferring RTT over SMS is that the latter can result in "[c]rossed messages [that] can lead to misunderstanding and loss of time. . . . In an emergency situation, a panicked caller may ask a second or third question if there is no immediate visible response from the 9–1–1 call-taker. This can lead to confusion, crossed answers, and error." In contrast, these groups explain, RTT enables "emergency call-takers [to] view the message as it is being typed and respond, refer, interrupt, or guide the information being sent to speed up communication and make it more helpful to emergency responders." In this manner, they say, RTT "allows for the efficient exchange of information and a continued sense of contact," as well as the delivery of even incomplete messages, which can result in potentially saving lives in an emergency.

29. The Commission recognizes that, two years ago, it adopted rules that could be met through the provision of SMS-based text-to-911 service. The Commission's goal in doing so was to ensure that, in the near term, individuals have a direct and familiar means of contacting 911 via text through mass market communication devices that are already available to people with disabilities and other members of the general public. The Commission noted that some commenters were less supportive of SMS-to-911 because it does not support the ability to "send and receive text simultaneously with the time that it is typed without having to press a 'send' key." At the same time, the Commission recognized that many stakeholders would choose to text to 911 through an interim SMS-based solution because of its ease of use for people with disabilities and ubiquity in mainstream society. It went on to note that RTT "provides an instantaneous exchange, character by character or word by word," a feature that commenters to this proceeding say is critical in an emergency. The record in the instant proceeding continues to reflect major concerns by several commenters about using SMS as a long term 911 accessibility solution. While the Commission does not propose to make any changes to its existing text-to-911 rules in this proceeding, it believes that its proposals to facilitate the wider availability of RTT for people with disabilities could have a beneficial impact on the future evolution of text-to-911.

30. The Commission proposes that RTT will be more effective than messaging-type services in meeting the communication needs of consumers with disabilities, including their emergency communication needs, and seeks comment on this proposal. Are there other text-based communication solutions that can meet the general communication needs of this population as effectively as RTT, and if so, how? How would the deployment of RTT or other text-based solutions impact the transition to NG911? The Commission asks commenters to address concerns about the costs, benefits, and feasibility of using RTT for accessing 911 services, and seeks comment on the technical and operational impact on Public Safety Answering Points (PSAPs) receiving RTT-based 911 calls.

Minimum Functionalities of RTT

31. The DAC recommends that the Commission "consider how telecommunication and advanced communications services and equipment that support RTT [can] provide the users of RTT (either in isolation or in conjunction with other media) with access to the same telecommunication and advanced communications functions and features that are provided to voice-based users of the services and equipment." The Commission believes that this formulation captures the objectives of sections 225, 255, and 716 of the Act, which are to provide functionally equivalent communications and to ensure that telecommunications and ACS are fully accessible to and usable by people with disabilities. The Commission proposes that, in amending its rules to recognize IP-based text alternatives and facilitate the transition away from TTY technology, the Commission should consider the extent to which RTT's features, functions, and capabilities can provide people with disabilities with telephone service that is as accessible, usable, and otherwise as effective as voice-based services over IP networks. The Commission seeks comment on this proposed approach.

32. The Commission tentatively concludes, proposes, or seeks comment on the following basic functionalities that it believes are necessary for a wireless provider's implementation of RTT to be considered compliant with the rules adopted by the Commission in this proceeding. The Commission seeks comment on the extent to which each is necessary to achieve effective telephone access for individuals with disabilities, as well as its costs, other benefits, and any technical or other challenges that may be associated with its provision. Finally, the Commission seeks comment on the extent to which each of these features will be enabled or facilitated through the use of RFC 4103. RFC 4103, *http://www.ietf.org/rfc/rfc4103.txt.*

Interoperability

33. The Commission tentatively concludes that people who rely on text to communicate can only achieve effective RTT communications across

multiple platforms and networks if the communication transmissions carried across, and the terminal equipment used with, those platforms and networks are interoperable with one another. The Commission seeks comment on this tentative conclusion. The Commission notes that there is consensus among commenters on AT&T's petition for rulemaking with respect to the need for seamless interconnection of RTT services across networks, service providers, and devices. Virtually all commenters agree with AT&T on the importance of not locking users into a single network, service provider, or device, as well as the value of ensuring that people with disabilities have the same kinds of choices in a competitive market as the population in general. Some commenters note that if service providers were to adopt proprietary standards that do not interoperate, RTT users might not be able to communicate with other users in emergency situations.

34. Commission rules reflect a longstanding commitment to policies favoring the openness of telecommunications services across providers and devices, so that anyone can make a voice call to anyone else, regardless of the provider or device they are using. For example, the Commission has promulgated a series of rules to ensure the interconnection of terminal equipment to the telephone network. The Commission's rules also prohibit telecommunications carriers and ACS providers from installing network features, functions, or capabilities that impede the accessibility or usability of telecommunications and ACS services. Further, in the *Emerging Wireline Order and Further Notice,* the Commission tentatively concluded that a carrier seeking to discontinue an existing retail communications service in order to transition to a newer technology must demonstrate that the replacement service offered by that carrier, or alternative services available from other providers in the affected service area, provides voice and non-voice device and service interoperability—including interoperability with third party services—as much as or more than the interoperability provided by the service to be retired. *Technology Transitions,* Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, published at 80 FR 63321, October 19, 2015 (*Emerging Wireline Order and Further Notice*). The Commission believes that preserving interoperability is equally important in the transition from TTY to RTT technology. The Commission further believes that, in the absence of interoperability, multiple versions of RTT may need to be supported, not only by user devices, but also by TRS call centers and 911 PSAPs—a burden that could entail a prohibitive expense for many such entities. The Commission seeks comment on this analysis.

35. *RFC 4103 as a Safe Harbor RTT Standard* The Commission next considers how best to achieve RTT interoperability across communication platforms, networks, and devices. Some commenters maintain that having a single standard will ensure that RTT is a valuable and universally usable communications medium and that it will be less expensive for carriers to develop and deploy a single, interoperable RTT system now, than to each develop their own versions of RTT service and later try to reconfigure these to be interoperable. Various commenters point out that the lack of a common standard sometimes has impeded the interoperability of communications technologies needed by people with disabilities, reporting that the lack of an international standard for TTY technology has prevented TTY users from communicating by text in real-time with people living or visiting countries abroad, the lack of a common standard for instant messaging sometimes prevents instant messaging users from being able to contact each other across platforms, and the lack of a common VRS standard has impeded full interconnection for users of this service since the early 2000s.

36. The Commission agrees with consumers and researchers that standards can be especially important to ensuring interoperability of technologies needed by people with disabilities, and that common technical specifications will allow connectivity to occur seamlessly from one end of the call to the other without incurring obstacles along the way. At the same time, the Commission acknowledges the need for its rules to incorporate "key principles of flexibility and technology neutrality" as recommended by industry commenters. The Commission tentatively concludes that a middle ground between these two approaches can be achieved by referencing a technical standard as a safe harbor. The Commission believes that this approach will ensure RTT interoperability and product portability, while at the same time providing sufficient flexibility for covered entities adhering to different internal RTT standards—so long as their RTT support offers the same functions and capabilities as the selected standard, and is interoperable with the standard's format where they connect with other providers. The Commission seeks comment on this tentative conclusion and analysis.

37. To the extent that any commenter believes that reference to a safe harbor standard is unnecessary, the Commission seeks comment on how it can otherwise ensure that RTT communications are interoperable, not just among different implementations of RTT, but also with legacy interconnected TTY devices. Likewise, the Commission asks commenters who support adoption of a mandatory technical standard to explain why a safe harbor, combined with performance objectives, would be insufficient to achieve effective and interoperable RTT communications. Further, will a safe harbor be sufficient to provide incentives for manufacturers and providers to invest in research and development of RTT functionalities?

38. For the reasons discussed below, the Commission tentatively concludes that RFC 4103 is the appropriate standard to which covered entities should adhere as a safe harbor, conformity with which should be deemed to satisfy the Commission's interoperability requirements and certain of the Commission's performance objectives for RTT communications. The Commission seeks comment on this tentative conclusion. Use of RFC 4103 for RTT communications is well supported by the record to date. First, RFC 4103 is a non-proprietary, freely available standard that has been widely referenced by leading standards organizations. This standard, developed by the IETF, has been adopted by the International Telecommunications Union Telecommunication Standardization Sector, the European Telecommunications Standards Institute, 3rd Generation Partnership Project, a partnership of seven telecommunications standards organizations (3GPP), and Groupe Speciale Mobile Association.

39. Second, RFC 4103 is already being used or has been widely designated for implementation by numerous carriers and other organizations, both domestic and foreign. Domestically, both AT&T and Verizon have specified RFC 4103 as the standard protocol to be implemented in their IP-based wireless networks as the successor to TTY technology, the National Emergency Number Association has specified RFC 4103 for interoperable use in IP-based Next Generation emergency text communications where Session Initiation Protocol (SIP) technology is used, and the Access Board has proposed requiring RFC 4103 for federal

procurements associated with the transmission of SIP-based RTT to achieve compliance with section 508 of the Rehabilitation Act. In addition, RFC 4103 is specified in the SIP Forum's interoperability profile for VRS providers. Some commenters note that outside the United States, RFC 4103 has been implemented in text or video relay services in France, the Netherlands, Sweden, and Norway.

40. Third, according to commenters, RFC 4103 has a number of features that make it particularly suitable for RTT. According to the Technology Research Centers, RFC 4103 eliminates the need to transcode at the borders of a network, permits a wide range of hardware, supports the international character set (Unicode), has built-in redundancy, is bandwidth efficient, is based on the same transmission protocol (RTP) as audio and video, and is supported by existing open source and commercial codecs. The Commission seeks comment on the value of each of these features and the extent to which they can contribute to making RFC 4103 a feasible and flexible means of achieving RTT interoperability and functionality. The Commission also seeks comment on which of the user functionalities necessary to an effective communications system, in addition to interoperability, can be made possible with adherence to RFC 4103. Further, to what extent can other RTT standards "coexist" with RFC 4103 in networks, technologies, and terminal equipment on which RTT is being used, to allow RTT to provide a universally accessible communications environment for people who are deaf, hard of hearing, speech disabled, or deaf-blind?

41. Next, the Commission seeks comment on whether RFC 4103 is sufficiently flexible to spur innovation in accessibility solutions. Are there any non-SIP-based networks for which implementation of RTT would serve the public interest, and if so, how could RTT be implemented on such networks so as to be interoperable with networks adhering to RFC 4103? Finally, if any adverse effects would result from adopting RFC 4103 as a safe harbor, the Commission asks commenters to identify these, and to explain specifically how such effects could be mitigated by modifying the standard or allowing an alternative protocol.

42. In the event that the Commission decides to adopt RFC 4103 as a safe harbor for RTT, the Commission seeks comment on how this standard can be updated and amended to accommodate successor non-proprietary RTT technologies that are developed in the future. The Technology Research Centers point out that the path for incorporating innovations into RTT can be the same as that used to update voice standards and codecs, *i.e.*, by phasing in new formats and technologies while continuing to support the existing technology until its retirement. How can the Commission design its rules to allow these capabilities to continue evolving with technological advances and ensure the flexibility requested by industry, while not compromising the effectiveness of this technology for people with disabilities?

43. The Commission believes that it has sufficient authority to adopt RFC 4103 as a safe harbor. Section 716 of the Act explicitly allows the Commission to "adopt technical standards as a safe harbor for such compliance if necessary to facilitate the manufacturers' and service providers' compliance with section [716](a) through (c) of the Act." 47 U.S.C. 617(e)(1)(D). Additionally, section 106 of the CVAA expressly authorizes the Commission "to promulgate regulations to implement the recommendations proposed by the EAAC, as well as any other regulations, *technical standards,* protocols, and procedures as are necessary to achieve reliable, interoperable communication that ensures access by individuals with disabilities to an Internet protocol-enabled emergency network, where achievable and technically feasible." 47 U.S.C. 615c(g) (emphasis added). The Commission seeks comment on this analysis. Further, the Commission asks commenters who support a mandatory standard to provide legal authority for their proposal. CTIA—The Wireless Association points out that section 716 of the Act does not permit the Commission's regulations implementing that section to mandate technological standards, except as a safe harbor to facilitate the manufacturers' and service providers' compliance with section 716 of the Act. At the same time, as noted, section 106 of the CVAA expressly authorizes the Commission to adopt technical standards to ensure access by people with disabilities to an IP-based emergency network. In the event that the Commission deems it necessary to adopt a mandatory RTT standard, would the Commission's specific standard-setting authority under section 106 of the CVAA, as well as its authority under 47 U.S.C. 225(d), provide sufficient authority for the Commission to establish a mandatory technical standard for RTT, notwithstanding the standard-setting restriction of section 716 of the Act?

Backward Compatibility With TTY Technology

44. The DAC points out that while TTY usage continues to be in steady decline, some people who are deaf, hard of hearing, deaf-blind, or speech disabled, including senior citizens and rural residents, continue to rely on TTYs. In order to ensure that TTY-reliant consumers continue to have a method of communicating during the transition to RTT technology, the Commission proposes that, to comply with the rules adopted in this proceeding, wireless service providers must ensure that their RTT technology is interoperable with TTY technology. The Commission seeks comment on this proposal. Among other things, with this requirement, the Commission believes it will remain possible for consumers to use their TTYs to communicate with a TRS call center that is set up to receive RTT calls and for consumers who use RTT technology to communicate with a TRS call center that is set up to provide traditional TTY-based TRS. The Commission seeks confirmation on whether it is feasible to use gateways and RFC 4103 to achieve backward compatibility, as proposed by the Technology Research Centers, and if not, how transcoding between RTT packets used with IP-based services and TTY Baudot tones can be achieved, in accordance with the accuracy criteria the Commission proposes for RTT. Is it correct that such interoperability can be achieved without added costs to TTY users and PSAPs as suggested by AT&T? The Commission asks commenters to discuss the costs, benefits, and technical feasibility of using any alternative standards for this purpose.

45. A particular concern regarding backward compatibility with TTYs is the fact that TTYs can only send and display a small subset of Unicode characters, namely upper-case letters, numbers, the pound and dollar signs, and some punctuation marks. Thus, gateways between RTT systems and legacy TTYs need to be able to convert the much larger Unicode set used with RTT into readable TTY characters. In general, such character conversion is called "transliteration." Thus, accented characters may be rendered as multiple characters—*e.g.*, "ä (a umlaut)" may become "AE." In some cases, words must be used in the transliteration, but all Unicode characters can be described unambiguously, if necessary, by their Unicode character name. According to the Unicode Consortium, transliterations should be standard, complete, predictable, pronounceable, and reversible. *See* Unicode Common

Locale Data Repository, *http://cldr.unicode.org/index/cldr-spec/transliteration-guidelines.* Should the rules require a standard transliteration approach or standard table, or should each entity responsible for offering gateways between RTT and TTY choose its own transliteration approach? What standards should be referenced? If each gateway may choose its own transliteration approach, should it meet, for example, the general transliteration guidelines formulated by the Unicode Consortium or other standards body? Should there be a standard indicator that a character string is a Unicode emoji, *e.g.,* "(* GOLFER *)" for Unicode U+1F3CC? With respect to PSAPs employing TTYs, what impact might transliteration have on PSAPs' ability to handle the RTT 911 call?

46. The Commission also seeks comment on whether there are other assistive devices used with the PSTN, such as Braille-capable devices used by people who are deaf-blind, that would require or benefit from backward compatibility, and what additional steps are necessary to achieve this, beyond the steps necessary to achieve backward compatibility for TTYs.

47. Finally, the Commission seeks comment on what events or measures should trigger a sunset of the residual obligation for wireless networks to be backward compatible with TTY technology. In the CVAA, Congress explicitly asked the EAAC to consider "the possible phase out of the use of current-generation TTY technology to the extent that this technology is replaced with more effective and efficient technologies and methods to enable access to emergency services by individuals with disabilities." 47 U.S.C. 615c(c)(6). The EAAC recommended against "imposing any deadline for phasing out TTY at the PSAPs until the analog phone system (PSTN) no longer exists, either as the backbone or as peripheral analog legs, unless ALL legs trap and convert TTY to IP real-time text and maintain [Voice Carry Over (VCO)] capability." Since then, however, the DAC has requested the Commission to "consider a TTY sunset period when declining wireline TTY minutes reaches a certain threshold to be determined, while addressing the needs of people who are deaf-blind, speech disabled, and have cognitive impairments as well as for relay services and rural access."

48. The Commission notes that the NG911 Now Coalition has set a goal of transitioning to nationwide NG911 by the end of 2020. *See* NG911 Now Coalition, *http://www.ng911now.org/#about.* The Commission seeks comment on whether this is an appropriate benchmark for terminating the requirement for backward compatibility, or whether a different indicator should be used to make this determination. Would it be more appropriate for the Commission to set the end date based on TTY usage falling below a threshold level? If the latter, should TTY usage be assessed based on usage of TTY-based forms of TRS, or a different indicator? The Commission is concerned about ensuring that people with disabilities continue to have a means of using text to make emergency and non-emergency calls after a TTY phase-out and generally seeks comment on safeguards needed to address these communications needs.

Other RTT Functionalities for Wireless Services

49. In addition to ensuring interoperability, in this section the Commission seeks comment on a number of other features and capabilities that it believes will be necessary to ensure that RTT is as accessible, usable, and effective for people with disabilities as voice telephone wireless service is for people without disabilities.

Initiation of Calls Using RTT

50. As a preliminary matter, the Commission proposes that wireless service providers and manufacturers be required to configure their networks and devices so that RTT communications can be initiated and received to and from the same telephone number that can be used to initiate and receive voice communications on a given terminal device. Among other things, the Commission tentatively concludes that enabling access to ten digit telephone numbers is necessary to reach and be reached by any other person with a phone number, and to ensure that RTT users can access 911 services. The Commission tentatively concludes that a similar ability is an essential part of the provision of RTT, and seeks comment on this tentative conclusion and proposal, including its costs, benefits and technical feasibility.

Support for 911 Emergency Communications

51. As the Commission has previously stated, "[t]he ability of consumers to contact 911 and reach the appropriate PSAP and for the PSAP to receive accurate location information for the caller is of the utmost importance." *Emerging Wireline Order and Further Notice.* The Commission proposes that the implementation of RTT in IP networks must be capable of transmitting and receiving RTT communications to and from any 911 PSAP served by the network in a manner that fully complies with all applicable 911 rules, and seeks comment on this proposal. Are specific measures or rule amendments necessary to ensure that RTT supports legacy 911, text-to-911, and NG 911 services? Given that RTT is in an all-IP environment, and that there may be outages during a loss of commercial power, or RTT may be unavailable due to the limited battery backup inherent in IP-based equipment, are there additional ways to ensure continued access to emergency communications in the event of a power failure to the same extent this will be guaranteed for voice telephone users?

Latency and Error Rate of Text Transmittal

52. Based on comments in the record, the Commission proposes that compliant RTT must be capable of transmitting text instantly, so that each text character appears on the receiving device at roughly the same time it is created on the sending device. To achieve this, the Commission further proposes requiring that RTT characters be transmitted within one second of when they are generated, with no more than 0.2 percent character error rate, which equates to approximately a one percent word error rate. The Commission believes that this will allow text to appear character-by-character on the recipient's display while the sender is typing it, with a point-to-point transmission latency that is no greater than that provided for voice communication. The Commission seeks comment on these proposals, as well as whether the Commission should adopt other measures regarding the latency and error rate for RTT. For example, is it feasible, and necessary for effective communication, to provide users with the ability to edit individual characters or groups of words in real-time—for example, by backspacing and retyping?

53. The Commission also notes that, according to the Technology Research Centers, any RTT system also can be programmed to first receive and hold the sender's communication while it is being composed, and to then send the entire message together when triggered to do so, in a manner akin to instant messaging. Is this "block mode" feature desirable for certain individuals? For example, would it alert people who are deaf-blind to incoming messages so that they know when it is appropriate to respond? If so, should the Commission allow or require that this capability be made available on compliant RTT technology? If such a feature is

permitted or required, should the Commission require nevertheless that RTT service revert to the character-by-character mode when 911 calls are detected by the IP network, in order to ensure the rapid exchange of information during such calls?

54. The Commission seeks comment on any other relevant considerations pertaining to the transmission and delivery of RTT that may affect its utility and effectiveness for people with communication disabilities.

Simultaneous Voice and Text Capabilities

55. The Commission proposes to require that, for a manufacturer's or service provider's implementation of RTT to be considered compliant with the rules the Commission adopts in this proceeding, users of RTT must be able to send and receive both text and voice simultaneously in both directions over IP on the same call and via a single device. The Commission seeks comment on this proposal.

56. According to the 3GPP Technical Specification for Global Text Telephony, which is cited by the DAC, RTT that is implemented under RFC 4103 allows text to be transported alone or in combination with other media, such as voice and video, in the same call session. The DAC therefore asks the Commission to consider "whether telecommunication and advanced communications systems can support the use of RTT simultaneously in conjunction with the other Real-Time media supported by the system." The DAC also recommends that the Commission consider whether RTT equipment and services should support, among other features, the user's ability to "intermix voice and text on the same call, including, for example, 'Voice Carry Over' and 'Hearing Carry Over.'" Such "carry over" modes currently are available as types of TRS. VCO allows people who are deaf and hard of hearing to use their own voices (where possible) and receive text back during a captioned telephone or TTY-based relay call, while HCO generally allows people with speech disabilities on speech-to-speech relay calls to hear directly what the other party says and use the CA to repeat what the person with the speech disability says. However, in an RTT network, can these features also serve as a mode of direct point-to-point communications, reducing the need for reliance on TRS?

57. A coalition of consumer groups points out that simultaneous voice and text on the same call also would allow callers to initiate a call using either text or voice and to switch to the other mode at any time during the call. Users would be able to send text in one direction and speech in the other, speak in parallel with text for captioned telephony, and supplement speech for difficult-to-hear words, addresses, and numbers. Others report findings that the quality, intelligibility, speed, and flow of communications improve when text is added to voice. Finally, the Technology Research Centers point out that the ability to use synchronized voice and text transmissions can improve communications on TRS calls. The Commission seeks comment on these assertions and the extent to which synchronized voice and text transmission is necessary for effective communication via RTT.

RTT With Video and Other Media

58. Next, the Commission seeks comment on whether to require that, where covered service providers support the transmission of other media, such as video and data, simultaneously with voice, they also provide the capability for the simultaneous transmission of RTT and such other media. The Commission notes that in studies conducted by the Technology Research Centers, participants generally expressed the desire to add video to RTT calls, "to express feelings, and to provide for more natural communication with sign language and the possibility of lip reading." In addition, some commenters highlight the benefits that multimedia capabilities can have in the TRS context, including the ability to supplement sign language communications with text on video relay calls. By enabling voice, text, and video to be delivered to users so that each of these types of media can be available at the same time, over the same call session, some parties also state that RTT can reduce overall reliance on TRS and also reduce or eliminate the need for TRS users to acquire the dedicated terminal equipment that is often needed to access these services. They claim that increasingly, people with and without disabilities would be able to converse with each other directly, using whichever mode of communication—voice, text, or video—is most suitable for getting their messages across.

59. To what extent is requiring such multimedia capabilities necessary to achieve telephone communications for text users that are as effective as those available to voice users? To what extent can such capabilities enhance the accuracy and speed of TRS or reduce overall reliance on conventionally defined forms of TRS, to ensure that TRS is available "in the most efficient manner"? 47 U.S.C. 225(b)(1). Would the inclusion of video capability with RTT be likely to lead to congestion problems, and how could such congestion be prevented or alleviated? For example, if simultaneous voice, RTT, and video are all available over the same telephone connection, could the parties to the call better simulate an in-person communication, which can be supplemented with RTT as needed, and thereby eliminate the need for a CA to serve as a communications bridge between the parties?

Requirements for TRS Providers

60. The Commission generally seeks comment on how to integrate RTT into the provision of TRS. Specifically, should the Commission amend its TRS rules to authorize or require TRS providers to incorporate RTT capabilities into platforms and terminal equipment used for certain forms of TRS, in order to enhance its functional equivalence? For example, Omnitor AB asks the Commission to require relay providers to incorporate RTT into their systems, so that callers can use RTT terminals to access TRS with a single step, using ten digit numbers. The Commission notes that at present, some forms of TRS are provided over the PSTN, while others are made available via IP networks. In light of the ongoing migration of communications from the circuit-switched PSTN to IP-based technologies, it appears that ultimately all PSTN-based TRS will be phased out and all TRS will be IP-based. If this occurs, should the Commission authorize or require IP Relay or other TRS providers to support an RTT mode between the user and the CA? If so, what timeline would be appropriate for implementing such capability? The Technology Research Centers suggest this is needed to improve the functional equivalence of the IP Relay interface, as well as to facilitate relay service modes, such as VCO and HCO. Should the Commission also authorize or require IP CTS or other TRS providers to support RTT transmission in any voice channels they provide and in any off-the-shelf equipment provided to IP CTS users? Finally, should the Commission authorize or require VRS providers to support an RTT mode between the user and the CA, so that RTT can be used to supplement communications in sign language with text during VRS calls? What other requirements are appropriate to assign to RTT or TRS providers to ensure the compatibility of their services as the transition to RTT takes place?

Character and Text Capabilities

61. Commenters in this proceeding point out that one advantage of RTT is that it allows communications using the full Unicode character set, as compared with the more limited character set available on TTY transmissions. They point out that besides facilitating communication in languages other than English, this capability allows users to transmit emoticons, graphic symbols that represent ideas or concepts—independent of any particular language—and specific words or phrases that have become integral to text communications in our society. In addition, commenters report that RTT can be equipped with the ability for users to control text settings such as font size and color, to adjust text conversation windows, and to set up text presentation.

62. The Commission seeks comment on the technical feasibility, costs, and benefits of requiring that these features of RTT be supported by a covered service provider's implementation of RTT. How can each of these capabilities meet the needs of people with specific disabilities? For example, can the availability of emoji characters help people with cognitive disabilities better communicate with and receive information from others? How well do special characters and emojis translate into voice, and what are the challenges of and best practices for enabling this capability? Is it necessary or desirable to have characters based on Unicode for them to be accessible to screen readers used by people who are blind, visually impaired or deaf-blind? Similarly, to what extent can the ability to set text style and text presentation layout contribute to usability, readability and comprehension of RTT? Should there be an option for the user, depending on preferences and needs, to configure the display of incoming and outgoing text in a certain way? Finally, the Commission seeks comment on the extent to which these capabilities are affected by the properties of network transmissions.

Accessibility, Usability, and Compatibility With Assistive Technologies

63. The Commission believes that RTT is appropriately classified as an "electronic messaging service" and that as such, both RTT services and the equipment used with them are subject to the requirements of section 716 of the Act and part 14 of the Commission's rules. 47 CFR 14.10(i). Therefore, the Commission believes that, independently of any rules specific to RTT that are adopted in this proceeding, RTT services and end user equipment used with them must be accessible, usable, and compatible with assistive technologies, as defined by part 14, to the same extent as is currently required for telecommunications and advanced communications services and equipment under the Commission's accessibility regulations. *See* 47 U.S.C. 617(a)–(b); 47 CFR 14.21. The Commission seeks comment on this position.

64. The Commission also seeks comment on whether it is possible to identify, more specifically than is currently identified by its part 14 rules, certain RTT features or functional capabilities that are needed to meet the communication needs of individuals who are deaf-blind, people with cognitive disabilities, or other specific segments of the disability community. For example, should the Commission require compatibility with certain assistive technologies used by people who are deaf-blind, such as refreshable Braille displays or screen enlargers? In addition to providing emoji's, are there other measures that can be taken or required to make RTT effective for people with cognitive disabilities? For example, should there be a mechanism for slowing up the receipt of text, or an option to enable message turn-taking to make it easier for these individuals to receive and read incoming messages? What features should be incorporated on terminal equipment used by these individuals to allow easy activation and operation of RTT functions?

Other Features

65. In addition to the above specific capabilities, the DAC recommends that the Commission consider whether compliant RTT equipment and services should be required to support the following telecommunications functions that are available to voice-based telephone users:

- The ability to "transfer a communication session using the same procedures used in voice telecommunication endpoints on the system";
- The ability to "initiate a multi-party teleconference using the same procedures used in voice telecommunication endpoints on the system";
- The ability to "use messaging, automated attendant, and interactive voice response systems"; and
- The ability to use caller identification and similar telecommunication functions.

The Commission tentatively concludes that such functions should be available to RTT users as necessary for effective communication, and it seeks comment on this tentative conclusion, including the costs, benefits, and technical feasibility of supporting these functions. The Commission also seeks comment on the extent to which the availability of each of these functions may be affected by how a service provider implements RTT in an IP network.

66. Additionally, the Commission seeks comment on whether to require that compliant RTT provide the ability to participate on multiple calls simultaneously and to leave and access voice and text mail, both of which are also telecommunications functions that must be made accessible to people with disabilities by federal agencies under section 508 of the Rehabilitation Act. *See* 36 CFR 1194.23, 1194.31(c), (e). Some commenters explain that when retrieving messages from voice mail, text information, including the name of the caller, return number (from caller ID), length of the call, time of the call, and related details could be sent and be viewable on screens. For interactive voice response prompts, they report, instant text of all the choices could be made available to callers.

Support of RTT Functionalities in Wireless Devices

Features and Functionalities

67. The Commission proposes to require that handsets and other end user devices subject to an RTT support requirement be required to support each of the RTT functionalities discussed above for service providers. The Commission seeks comment on this proposal, including its costs, benefits, and technical feasibility. To what extent are these features and functions under the service provider's or manufacturer's control? Are there other features and functionalities that should be required for end user devices to effectively support RTT? Further, to what extent can such features and functionalities and their associated benefits be obtained if RTT is not fully incorporated as a native function of end user devices, but is merely available for users to download or install as an over-the-top application? To what extent would it make a difference if an RTT application is installed as a "default" app prior to sale of a handset or end user device?

Device Portability and Interface With Third-Party Applications

68. In order to ensure that individuals can use a single device on multiple networks, to the same extent as is currently possible with voice communications, there must be a stable

interface between user equipment and VoIP networks. For example, if subscribers to one wireless provider were to lose RTT communication capability when they insert a subscriber identity module (SIM) card for another wireless provider into their smartphones, then the inter-network portability achieved for voice users' smartphones would be unavailable to RTT users, and the Commission's rules may fail to achieve functional equivalence in this critical respect. Therefore, the Commission proposes to require, at a minimum, that covered service providers enable device portability for their RTT services to the same extent as they enable device portability for voice services. The Commission seeks comment on this proposal.

69. The Commission also seeks comment on the extent to which all necessary functionalities for effective use of RTT can be made available through provider-approved devices and applications, or whether third party software applications will be needed for some RTT features and functions. To what extent will consumers need access to third party RTT software applications on user devices to supplement native RTT capabilities that are integrated into such devices, in order to achieve functional equivalence with voice communications? Should the Commission require providers to offer an "app interface" to facilitate access to third party applications?

70. In the event that the Commission adopts requirements for device portability or the enabling of third party applications, or both, it seeks comment on the availability or feasibility of a safe-harbor standard for a user-network interface that could support the RTT capabilities of user devices and applications from multiple manufacturers and providers. Alternatively, are there reasonable performance criteria that could be applied to ensure that a network-user interface can support multiple third party devices and applications?

Minimizing Costs Incurred by Consumers

71. Last, the Commission seeks comment on equipment costs to consumers that may result from the transition from TTY to RTT technology. Specifically, the Commission seeks comment on whether there are measures it could take in the context of this proceeding to ensure the affordability of new terminal equipment or assistive devices that may be needed as a consequence of the migration to RTT technology, and whether such measures are appropriate. The Commission expects that many off-the-shelf VoIP devices will be usable with RTT—eliminating altogether the need for specialized equipment. In addition, the Commission notes that several states have programs that distribute specialized communications equipment to people, often based on their economic need. Similarly, the Commission administers the National Deaf-Blind Equipment Distribution Program, which provides funding for certified state programs to distribute communications equipment and provide related services to low income individuals who are deaf-blind across the United States. 47 CFR 64.610. AARP recommends that carriers seeking to transition to IP systems be required to work with governmental agencies that distribute such assistive equipment to qualified individuals with disabilities. The Commission seeks comment on the appropriateness of this suggestion, and other ways that the Commission can alleviate any burdens that might be associated with acquiring new equipment or software, particularly for those who do not qualify for existing state and federal equipment distribution programs or for those will need to replace devices not covered by such programs.

Consumer Outreach and Notifications

72. To ensure a seamless TTY–RTT transition, the Commission seeks comment on the best means of informing the public, including businesses, governmental agencies, and individuals with disabilities who will be directly affected by the transition, about the migration from TTY technology to RTT and the mechanics of how this technology will work. To be effective, RTT must be usable by people with and without disabilities. Accordingly, the Commission tentatively concludes that such outreach should not only focus on people with disabilities, but also on the general public that will be communicating with such individuals, and seeks comment on this tentative conclusion. The Commission seeks comment on whether the statutory authority on which it proposes to rely for the purpose of regulating the provision of RTT is sufficient to authorize outreach requirements with respect to RTT. The Commission notes that it has previously used its authority under section 225 of the Act to require service providers to conduct outreach about TRS, and now asks whether it can rely upon such authority to require outreach on RTT. *See* 47 CFR 64.604(c)(3). What are the most effective methods to provide such notification, and to what extent should covered entities coordinate with consumer and industry stakeholders to develop effective messaging and outreach initiatives? Further, to what extent should the outreach conducted by manufacturers and service providers include outreach to the operators of public TTYs and Wi-Fi phone installations?

73. Prior to the adoption of document FCC 16–53, the Commission's Consumer and Governmental Affairs Bureau, together with three other bureaus within the Commission, granted various wireless carriers temporary waivers of the Commission's requirements to support TTY technology on IP-based wireless networks subject to certain conditions. The Commission proposes that the conditions imposed in the bureaus' waiver orders remain in effect until the full implementation of rules adopted in this proceeding. These conditions include a requirement for waiver recipients to apprise their customers, through effective and accessible channels of communication, that (1) until TTY is sunset, TTY technology will not be supported for calls to 911 services over IP-based wireless services, and (2) there are alternative PSTN-based and IP-based accessibility solutions for people with communication disabilities to reach 911 services. These notices must be developed in coordination with PSAPs and national consumer organizations, and include a listing of text-based alternatives to 911, including, but not limited to, TTY capability over the PSTN, various forms of PSTN-based and IP-based TRS, and text-to-911 (where available). The Commission tentatively concludes that the provision of this information is necessary to ensure that, during the transition period, there is no expectation on the part of consumers with disabilities that TTY technology will be supported by IP-based wireless services, and to ensure that these consumers know that alternative accessible telecommunications options exist, and seeks comment on this belief. The Commission further proposes that all information and notifications about the RTT transition be provided in accessible formats, such as large print, Braille, and other appropriate means to make information accessible to people with disabilities, and seeks comment on this proposal. Are any different or additional notices needed to ensure that consumers are aware of potential issues regarding 911 communications during a TTY–RTT transition?

74. Finally, the Commission tentatively concludes that, consistent with the usability requirements of its rules implementing sections 255 and

716 of the Act (*see* 47 CFR 6.11(a)(3), 7.11(a)(3)) as well as previous actions by the Commission to educate consumers about TRS (*see* 47 CFR 64.604(c)(2)), covered entities should be required to implement a mechanism to provide information and assistance during business hours to their consumers regarding the TTY–RTT transition, and seeks comment on this tentative conclusion. The Commission seeks comment on how this can best be achieved. For example, to what extent should covered entities be required to designate staff trained to assist consumers with the complex issues related to the TTY–RTT transition? Are there additional mechanisms for outreach education and assistance that should be adopted?

Other Matters

75. *Security Concerns.* The Commission seeks comment on security risks that may be associated with the adoption of RTT technology and that require the Commission's attention. The Technology Research Centers point out the availability of technical methods to secure SIP calls, both for call control security and media security. They also caution against "blocking of RTT," which they say could occur where security or IT management personnel are not aware of the need to support real-time text. They explain that this can be remedied by the use of a "SIP-aware firewall," which will allow the proper pass-through of RTT once deployed. The Commission seeks comment on these and other security concerns that should be addressed through this proceeding, including the costs, benefits, and technical feasibility of implementing specific security measures.

RTT Implementation in IP-Based Wireline Networks and Equipment

76. The Commission seeks comment on whether, in addition to requiring the implementation of RTT by wireless service providers, the Commission should amend its rules to require the implementation of RTT in IP-based wireline networks. As discussed above, problems associated with TTY transmissions are not limited to those that occur over IP wireless networks. Because TTYs were not designed for the IP environment, they have not performed well in any IP-based system; in fact, many of the problems associated with TTY use over IP-enabled wireless networks—*e.g.,* dropped packets and data connection stability issues—also occur in wireline networks. Thus, as an initial matter, the Commission seeks comment on the extent to which wireline IP networks can reliably support TTY communications.

77. Moreover, there is considerable information in the record that in any communications environment, TTYs remain inadequate with respect to their speed, their limited character set, and their failure to allow the simultaneous communication enjoyed by voice communications users. The Commission thus next seeks comment on whether the Commission should amend its rules at parts 6, 7, 14, and 64, to allow or require wireline VoIP service providers to support RTT, as the Commission is proposing to do for wireless services. What would be the costs, benefits, and technical feasibility of such requirements? The Commission believes that for RTT to effectively replace TTYs and allow full integration by people with disabilities into our nation's mainstream communications system, the ability to access our nation's wireline VoIP services using RTT will be just as important as the ability to access wireless services, especially if TTY technology is phased out. Many, if not most businesses, government agencies, and retail establishments continue to rely on wireline services, and having telephone access to such enterprises will be necessary for people with disabilities who rely on text to maintain their independence, privacy, and productivity.

78. If the Commission amends its rules governing wireline services to incorporate RTT support obligations, how can the Commission ensure that end users can readily connect to and use such RTT capabilities in wireline IP networks? For example, given that wireline part 68 customer premise equipment such as wired and cordless phones currently cannot readily support real-time text, would it be feasible and practical for wireline VoIP service providers to offer over-the-top RTT applications downloadable to text-capable devices such as smartphones, tablets, and computers, that could then be used to connect to the carrier's VoIP service platform? Should wireline VoIP providers be required to ensure the compatibility of their services with third-party RTT applications present in stand-alone devices or downloaded onto text-capable devices such as smartphones, tablets, and computers? To what extent should wireline VoIP manufacturers have RTT support obligations for their equipment that is otherwise capable of sending, receiving, and displaying text? To the extent that IP-based wireline service providers and manufacturers have an obligation under the Commission's rules to support RTT, should they be required to adhere to the same interoperability requirements, minimum functionalities, and outreach obligations that the Commission proposes to require for wireless VoIP services and end user devices? Finally, is RFC 4103 an appropriate standard to reference as the safe harbor for wireline VoIP services and text-capable end user equipment to ensure interoperability and compliance with the rules proposed for wireless services?

79. The Commission also seeks comment on the appropriate timing for incorporation of RTT capabilities into wireline VoIP services and end user devices, in the event that rules requiring such capabilities are adopted, and the extent to which such timing should be determined by the manufacture or sell date of new devices. Similarly, should requirements for RTT support also be triggered at "natural opportunities"? The Commission also seeks comment on whether RTT would be particularly beneficial in the context of Inmate Calling Services (ICS), particularly given the problems ICS users have encountered in trying to use TTYs, and whether there are specific issues the Commission would need to consider in relation to the use of RTT by inmates.

80. Finally, how should TTY support obligations be modified as wireline networks discontinue their circuit-switched services? Should wireline providers that support RTT on their IP networks be permitted to cease supporting TTY technology at all, and if so, on what timetable? In comments filed in response to the *Emerging Wireline Order and Further Notice,* AARP has raised concerns about establishing firm dates for the sunset of TTY technology, given that a large number of carriers "serving millions of subscribers, may continue to deliver voice services over legacy facilities for an extended period." AARP claims that "[a]dopting hard and fast sunset dates may lead to customer confusion, and place undue burdens on some service providers and their customers" and urges that, if the Commission establishes a termination date for TTY technology, it do so only for specific carriers that have filed for relief under section 214 of the Act. The Commission seeks comment on these claims and how it should consider the needs of consumers who still use TTYs in framing rules to address a transition to wireline implementation of RTT.

Legal Authority

81. The Commission believes that it has sufficient legal authority to adopt the proposed rules to specify support for RTT communications by wireless IP-based services and equipment. The

Commission also believes that it has sufficient legal authority, should it so decide, to amend the Commission's rules to similarly specify support of RTT technology by wireline IP-based services and equipment. Further, the Commission believes that it may rely on the sources of authority identified above, as well as the specific authorities discussed below, to require that RTT provided pursuant to the proposed rule amendments must meet the interoperability, minimum functionality, and outreach requirements proposed above. The Commission seeks comment on these views, as well as whether there are other sources of authority beyond those described herein to support the proposals herein.

Amendment of § 20.18

82. The Commission believes its proposal to amend § 20.18(c) of its rules to require wireless VoIP service providers to ensure that their services, handsets, and other authorized devices are capable of transmitting 911 calls through RTT technology over IP networks, in lieu of transmitting 911 calls from TTYs, is within the Commission's Title III authority to regulate wireless service providers. Title III authorizes the Commission, among other things, to prescribe the nature of the service to be rendered by licensed service providers and to modify the terms of existing licenses where such action will promote the public interest, convenience, and necessity. 47 U.S.C. 303(b), (g), 316(a)(1). The Commission relied on Title III in regulating the location capabilities of wireless services and handsets and in adopting the rule requiring wireless providers to transmit 911 calls from individuals made on non-handset devices such as TTYs. The Commission further relied on Title III in requiring wireless providers to support text-to-911 service, concluding that Title III confers broad authority to prescribe the nature of the emergency service obligations of wireless providers, including deployment of text-to-911 capabilities.

83. The Commission further believes that its RTT-related proposed amendments to section 20.18 of its rules are within the Commission's direct statutory authority under section 106 of the CVAA to implement recommendations proposed by the EAAC (47 U.S.C. 615c(c)), as well as "to promulgate . . . any other regulations, technical standards, protocols, and procedures as are necessary to achieve reliable, interoperable communication that ensures access by individuals with disabilities to an Internet protocol-enabled emergency network, where achievable and technically feasible." 47 U.S.C. 615c(g). The Commission relied on this authority to impose text-to-911 requirements on wireless providers and interconnected text service providers, as well as to require bounce-back messaging when a PSAP is unable to accept a text calls. The Commission's determination rested on two grounds: (1) That it was a proper exercise of the agency's authority to promulgate EAAC recommendations, and (2) that it was a lawful exercise of the agency's CVAA authority to promulgate certain "other regulations." *See* 47 U.S.C. 615c(g).

84. The EAAC submitted several recommendations to the Commission that appear to be particularly relevant to this proceeding. For example, the EAAC recommended "that the FCC adopt requirements that ensure that the quality of video, text and voice communications is sufficient to provide usability and accessibility to individuals with disabilities based on industry standards for the environment." The EAAC also recommended "that the FCC remove the requirement for TTY (analog real-time text) support for new IP-based consumer services that implement IP-based text communications that include at a minimum real time text or, in an LTE environment, IMS Multimedia Telephony that includes real-time text." The Commission seeks comment on whether these or other of the EAAC's recommendations, including those involving the migration to a national IP-enabled network," provide an additional basis for the Commission to rely on its authority under 47 U.S.C. 615c(g) to adopt the amendments proposed here. The Commission also seeks comment generally on the scope of the Commission's authority under section 106 of the CVAA with respect to adoption of rules governing access to emergency services via RTT. 47 U.S.C. 615c.

85. The Commission also has been granted broad authority to ensure effective telephone access to emergency services that may be relevant here, given the suggested importance of RTT as a means of securing emergency assistance. This includes, for example, the specific delegation of responsibility to the Commission under 47 U.S.C. 251(e)(3) to "designate 911 as the universal emergency telephone number for reporting an emergency to appropriate authorities and requesting assistance," the Wireless Communications and Public Safety Act of 1999 (codified at 47 U.S.C. 615–615b) and the NET 911 Improvement Act of 2008 (codified at 47 U.S.C. 615a). The Commission seeks comment on the possible relevance of these sources of authority to this proceeding.

86. Generally, the Commission tentatively concludes that the sources of legal authority for the actions taken in connection with the above-described 911 initiatives support the initiative the Commission is launching today, given the similarities—and despite the differences—between them. Major objectives of these 911 initiatives have been to ensure that (1) CMRS and other covered wireless providers provide an interim mobile text solution for this important constituency during the transition to NG911, and (2) the needs of people with disabilities do not get left behind as technology develops. The proceeding here addresses a current gap in the availability of emergency communications services by people with disabilities vis-à-vis those now widely available to the population at large, namely, the disparity in the opportunity to engage in real-time communications with emergency providers. To rectify this deficiency, RTT offers the opportunity to engage in text communications on a real-time basis, which comes much closer to voice than the currently available text-based communications vehicles. Analogous to the earlier 911 initiatives, the above-cited legal authorities support the Commission's use of the measures proposed here to provide people who are deaf, hard of hearing, deaf-blind, and speech-disabled with the opportunity to access real time communications service in emergency situations when the need for such capabilities is most pressing. The Commission seeks comment on its tentative conclusion and assessment.

Amendment of Parts 6, 7, and 14

87. The Commission believes that it is within its authority under sections 251, 255, and 716 of the Act to amend parts 6 and 7 of the Commission's rules to require providers of interconnected wireless VoIP service (as well as manufacturers of equipment used with such services) to support RTT, if readily achievable (under parts 6 and 7), and to amend part 14 to require wireless providers of VoIP service (as well as manufacturers of equipment used with such services) not subject to parts 6 and 7 to support RTT, unless this requirement is not achievable (under part 14). Likewise, given that the Commission seeks comment above on whether to provide for support of RTT on wireline networks, the Commission notes its belief that the Commission has sufficient authority under these provisions to amend its rules to similarly require providers of wireline

VoIP services and manufacturers of equipment used with such services to support RTT, should the Commission so decide. The Commission further believes that these sections provide sufficient authority to impose requirements to ensure that RTT is compatible with assistive technologies used by people with disabilities, such as refreshable Braille displays used by people who are deaf-blind, and seeks comment on this position.

88. Section 255 of the Act requires providers of telecommunications service and manufacturers of telecommunications and customer premises equipment to ensure that their services and equipment are accessible to and usable by individuals with disabilities, if readily achievable. Section 251(a)(2) of the Act provides that telecommunications carriers may not install network features, functions, or capabilities that do not comply with the guidelines and standards established pursuant to section 255 of the Act. 47 U.S.C. 251(a)(2). Section 716 of the Act requires providers of ACS and manufacturers of equipment used with ACS to ensure that their services and equipment are accessible to and usable by individuals with disabilities, unless such requirements are not achievable, and directs the Commission to promulgate implementing regulations. 47 U.S.C. 617. ACS, in turn, is defined to include interconnected and non-interconnected VoIP service, as well as electronic messaging service and interoperable video conferencing service. 47 U.S.C. 153(1). Both sections 255 and 716 of the Act require that, to the extent that it is not achievable to make a service accessible and usable, service providers "shall ensure that [their] equipment or service is compatible with existing peripheral devices or specialized customer premises equipment [SCPE] commonly used by individuals with disabilities to achieve access," if readily achievable, under section 255 of the Act, or unless not achievable, under section 716 of the Act. 47 U.S.C. 255(d), 617(c). The Commission seeks comment on whether these statutory provisions provide sufficient authority to establish RTT requirements for wireless and wireline services and equipment.

89. Congress intended for these provisions collectively to ensure access by people with disabilities to our nation's telecommunications and advanced communications services, and gave the Commission broad authority to determine how to achieve this objective. 47 U.S.C. 154(i). For example, section 716 of the Act directs the Commission to prescribe regulations that "include performance objectives to ensure the accessibility, usability, and compatibility of advanced communications services and the equipment" and "determine the obligations under this section of manufacturers, service providers, and providers of applications or services accessed over service provider networks." 47 U.S.C. 617(e)(1)(A), (C). Given the limitations of TTY technology, the Commission believes that RTT is best suited to replace TTY technology for rendering voice IP services accessible to people who are deaf, hard of hearing, deaf-blind, or speech-disabled. The Commission seeks comment on this analysis.

Amendment of Part 64

90. The Commission believes that it has sufficient authority under the Act to adopt the proposed amendments to part 64 of its rules to require wireless VoIP service providers to support the provision of and access to TRS via RTT. The Commission also believes that the Commission has sufficient authority under these provisions to adopt similar amendments to require wireline VoIP service providers to support RTT for the provision of and access to TRS.

91. Section 225 of the Act directs the Commission to "ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States," and further to prescribe implementing regulations, including functional requirements and minimum standards. 47 U.S.C. 225(b)(1), (d)(1). Congress initially placed the obligation to provide TRS on common carriers "providing telephone voice transmission services," either on their own or through a state-supported TRS program, in compliance with the implementing regulations prescribed by the Commission. 47 U.S.C. 225(c). Pursuant to the Commission's ancillary jurisdiction, the Commission extended the TRS obligations to interconnected VoIP providers. Included in the TRS obligations of carriers and interconnected VoIP service providers is the obligation to support access to TRS call centers, including through abbreviated 711 dialing access for TRS calls initiated by TTYs. The Commission believes that it has sufficient authority under these provisions to require VoIP service providers to support TRS access via RTT in lieu of requiring support for TTY technology. Section 225 of the Act does not require that TRS be provided or accessed with TTYs. *See* 47 U.S.C. 225(a)(3). Further, section 225 of the Act expressly directs the Commission to "ensure that regulations prescribed to implement this section encourage . . . the use of existing technology and do not discourage or impair the development of improved technology." 47 U.S.C. 225(d)(2). The Commission seeks comment on this analysis.

Initial Regulatory Flexibility Act Analysis

92. As required by the Regulatory Flexibility Act, the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in document FCC 16–53. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified in the **DATES** section. The Commission will send a copy of document FCC 16–53, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). *See* 5 U.S.C. 603(a).

Need For, and Objectives of, the Proposed Rules

93. In document FCC 16–53, the Commission proposes amendments to its rules to facilitate a transition from outdated text telephony (TTY) technology to a reliable and interoperable means of providing real-time text (RTT) communication over Internet Protocol (IP) enabled networks and services for people who are deaf, hard of hearing, speech disabled, and deaf-blind. Real-time text is a mode of communication that permits text to be sent immediately as it is being created. The Commission's proposals would replace existing requirements mandating support for TTY technology with rules for wireless IP-based voice services to support RTT technology instead. The Commission's action seeks to ensure that people who are deaf, hard of hearing, speech disabled, and deaf-blind can fully utilize and benefit from twenty-first century communications technologies as the United States migrates from legacy circuit-switched systems to IP-based networks and services.

94. The Commission seeks comment on the following:

- Its proposal to replace the Commission's rules that require wireless service providers and equipment manufacturers to support TTY technology with rules defining the obligations of these entities to support

RTT technology over IP-based voice services.

- Its tentative conclusions that the technical and functional limitations of TTYs make this technology unsuitable as a long-term means to provide full and effective access to IP-based wireless telephone networks, that there is a need to provide individuals who rely on text communication with a superior accessibility solution for the IP environment, and that RTT can best achieve this goal because it can be well supported in the wireless IP environment, will facilitate emergency communications to 911 services, allows for more natural and simultaneous interactions on telephone calls, will largely eliminate the need to purchase specialized or assistive devices that connect to mainstream technology, and may reduce reliance on telecommunications relay services.
- Its proposal to make the above amendments effective by December 31, 2017, for large wireless service providers and manufacturers of user devices authorized for their services, its proposal to give additional time for compliance by smaller service providers and manufacturers of user devices authorized for their services, and the amount of additional time that would be appropriate.
- Its tentative conclusions that deployment of RTT on IP networks will offer functionality greatly superior to that of TTY technology; that the ability to acquire off-the-shelf RTT-capable devices will be beneficial for text communication users; and that RTT will be more effective than messaging-type services such as short messaging services (SMS) in meeting the communication needs of consumers with disabilities, including their emergency communication needs.
- Its tentative conclusion that for effective RTT communications across multiple platforms and networks, such communications and the associated terminal equipment must be interoperable with one another.
- Its proposal to adopt a standard developed by the Internet Engineering Task Force (IETF), RFC 4103, as a safe harbor technical standard, adherence to which will be deemed to satisfy the interoperability requirement for RTT communications.
- Its proposal that service providers should be required to make their RTT services interoperable with TTY technology supported by circuit-switched networks, and when that requirement should sunset.
- Its proposal to require that wireless providers and equipment manufacturers implementing RTT support the following telecommunications functions:
  - Use of the same North American Numbering Plan numbers used for voice, to initiate and receive calls;
  - 911 emergency communications in full compliance with all applicable 911 rules;
  - transmission of characters within one second of when they are generated, with no more than a 0.2 percent character error rate, which equates to approximately a one percent word error rate;
  - simultaneous voice and text transmission;
  - TRS access;
  - a comprehensive character set and the ability to control text settings such as font size and color, to adjust text conversation windows, and to set up text presentation;
  - compliance with the Commission's existing accessibility regulations for "electronic messaging services"; and
  - other calling features such as call transfer, teleconferencing, caller identification, voice and text mail, and interactive voice response systems.
- Its proposal to require wireless service providers implementing RTT to enable device portability for their RTT services to the same extent as for voice services and whether to require such providers to enable the use of third party RTT software applications on user devices to supplement the native RTT capabilities.
- Measures that may be needed to ensure the affordability of new terminal equipment or assistive devices that may be needed as a consequence of the migration to RTT technology.
- Its proposal to require wireless service providers to notify their customers about the inability to use TTYs with IP-based services and about alternative means of reaching 911 services.
- The best means of informing the public, including businesses, governmental agencies, and individuals with disabilities who will be directly affected by the transition, about the migration from TTY technology to RTT and the mechanics of how this technology will work.
- Security risks that may be associated with the adoption of RTT technology and that require the Commission's attention.
- Whether to require the implementation of RTT in IP-based wireline networks, including:
  - Whether to require wireline voice-over-IP (VoIP) service providers to support RTT, as the Commission is proposing to do for wireless services;
  - How to ensure that end users can readily connect to and use RTT capabilities in wireline networks, and whether it would be feasible and practical for wireline VoIP service providers to offer downloadable over-the-top RTT software applications;
  - Whether to require VoIP providers to ensure the compatibility of their services with third-party RTT software applications downloaded onto text-capable devices such as smartphones, tablets, and computers;
  - The extent to which wireline VoIP manufacturers should have RTT support obligations for their equipment that is otherwise capable of sending, receiving, and displaying text;
  - Whether IP-based wireline service providers and manufacturers should be required to adhere to the same interoperability requirements, minimum functionalities, and outreach obligations as those proposed for wireless VoIP services and end user devices;
  - Whether RFC 4103 is an appropriate standard to reference as the safe harbor for wireline VoIP services and end user equipment to ensure interoperability and compliance with the rules proposed for wireless services; and
  - The appropriate timing for incorporation of RTT capabilities into wireline VoIP services and end user devices.

Legal Basis

95. The proposed action is authorized under sections 1, 2, 4(i), 225, 255, 303, 316, and 716 of the Act, section 6 of the Wireless Communications and Public Safety Act of 1999, and section 106 of the CVAA; 47 U.S.C. 151, 152, 154(i), 225, 255, 303, 316, 615a–1, 615c, 617.

Description and Estimate of the Number of Small Entities Impacted

96. The RFA directs agencies to provide a description and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small-business concern" under the Small Business Act. A "small-business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

97. The majority of the Commission's proposals in document FCC 16–53 will affect obligations on telecommunications carriers and providers, VoIP service providers,

wireline and wireless service providers, ACS providers, and telecommunications equipment and software manufacturers. Other entities, however, that choose to object to the substitution of RTT for TTY technology under the Commission's new proposed rules may be economically impacted by the proposals in document FCC 16–53.

98. A small business is an independent business having less than 500 employees. Nationwide, there are a total of approximately 28.2 million small businesses, according to the SBA. Affected small entities as defined by industry are as follows.

Wireline Providers

99. *Wired Telecommunications Carriers.* The Census Bureau defines this industry as comprising "establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry." The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. According to Census Bureau data for 2007, there were 3,188 firms in this category, total, that operated for the entire year. Of this total, 3,144 firms had employment of 999 or fewer employees, and 44 firms had employment of 1000 employees or more. Thus, under this size standard, the majority of firms can be considered small.

100. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of local exchange service are small entities.

101. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small entities.

102. The Commission has included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. The Commission has therefore included small incumbent LECs in this RFA analysis, although the Commission emphasizes that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

103. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Of the 72, seventy have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and other local service providers are small entities.

104. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 359 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities.

105. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these, an estimated 279 have 1,500 or fewer employees and five have more than 1,500 employees. Consequently, the Commission estimates that most Other Toll Carriers are small entities.

Wireless Providers

106. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. The Census Bureau defines this industry as comprising "establishments engaged in operating and maintaining switching and transmission facilities to provide

communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services." Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), census data for 2007 show that there were 1,383 firms that operated for the entire year. Of this total, 1,368 firms had employment of 999 or fewer employees. Since all firms with fewer than 1,500 employees are considered small, given the total employment in the sector, the Commission estimates that the vast majority of wireless firms are small entities.

Cable Service Providers

107. *Cable Companies and Systems (Rate Regulation).* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that there are currently 4,600 active cable systems in the United States. Of this total, all but nine cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a "small system" is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers. Thus, under this standard, the Commission estimates that most cable systems are small entities.

All Other Telecommunications

108. *All Other Telecommunications.* The Census Bureau defines this industry as including "establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or Voice over Internet Protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry." The SBA has developed a small business size standard for this category; that size standard is $32.5 million or less in average annual receipts. According to Census Bureau data for 2007, there were 2,383 firms in this category that operated for the entire year. Of these, 2,346 firms had annual receipts of under $25 million. Consequently, the Commission estimates that the majority of these firms are small entities.

109. *TRS Providers.* These services can be included within the broad economic category of All Other Telecommunications. Seven providers currently receive compensation from the Interstate Telecommunications Relay Service (TRS) Fund for providing TRS: ASL Services Holdings, LLC; CSDVRS, LLC; Convo Communications, LLC; Hamilton Relay, Inc.; Purple Communications, Inc.; Sprint Communications, Inc. (Sprint); and Sorenson Communications, Inc. However, because Sprint's primary business fits within the definition of Wireless Telecommunications Carriers (except Satellite), Sprint is not considered to be within the category of All Other Telecommunications. As a result, six of the authorized TRS providers can be included within the broad economic census category of All Other Telecommunications. The SBA has developed a small business size standard for All Other Telecommunications, which consists of all such firms with gross annual receipts of $32.5 million or less. Under this category and the associated small business size standard, approximately half of the TRS providers can be considered small.

Manufacturers of Equipment To Provide VoIP

110. Entities manufacturing equipment used to provide interconnected VoIP, non-interconnected VoIP, or both are generally found in one of two Census Bureau categories, "Electronic Computer Manufacturing" or "Telephone Apparatus Manufacturing." While the Commission recognizes that the manufacturers of equipment used to provide interconnected VoIP will continue to be regulated under section 255 of the Act rather than under section 716 of the Act, the Commission includes here an analysis of the possible significant economic impact of the Commission's proposed rules on manufacturers of equipment used to provide both interconnected and non-interconnected VoIP because it was not possible to separate available data on these two manufacturing categories for VoIP equipment. In light of this situation, the estimates below are in all likelihood overstating the number of small entities that manufacture equipment used to provide interconnected VoIP and which are subject to the proposed section 716 rules. However, in the absence of more accurate data, the Commission presents these figures to provide as thorough an analysis of the impact on small entities as it can at this time, with the understanding that it will modify its analysis as more accurate data becomes available in this proceeding.

111. *Electronic Computer Manufacturing.* The Census Bureau defines this category to include ". . . establishments primarily engaged in manufacturing and/or assembling electronic computers, such as mainframes, personal computers, workstations, laptops, and computer servers. Computers can be analog, digital, or hybrid. Digital computers, the most common type, are devices that do all of the following: (1) Store the processing program or programs and the data immediately necessary for the execution of the program; (2) can be freely programmed in accordance with the requirements of the user; (3) perform arithmetical computations specified by the user; and (4) execute, without human intervention, a processing program that requires the computer to modify its execution by logical decision during the processing run. Analog computers are capable of simulating mathematical models and contain at least analog, control, and processing elements. The manufacture of computers includes the assembly of or integration of processors, co-processors, memory, storage, and input/output devices into a user-programmable final product. The manufacture of computers includes the assembly or integration of processors, coprocessors, memory, storage, and input/output devices into a user-programmable final product." In this category, the SBA has deemed an electronic computer manufacturing business to be small if it has fewer than 1,000 employees. According to Census Bureau data for 2007, there were 425 establishments in this category that operated that year. Of these, 419 had less 1,000 employees. Consequently, the Commission estimates that the majority of these establishments are small entities.

112. *Telephone Apparatus Manufacturing.* The Census Bureau defines this category to comprise "establishments primarily engaged in manufacturing wire telephone and data communications equipment." The Census Bureau further states: "These

products may be stand alone or board-level components of a larger system. Examples of products made by these establishments are central office switching equipment, cordless telephones (except cellular), PBX equipment, telephones, telephone answering machines, LAN modems, multi-user modems, and other data communications equipment, such as bridges, routers, and gateways."

113. In this category, the SBA has deemed a telephone apparatus manufacturing business to be small if it has fewer than 1,000 employees. For this category of manufacturers, Census data for 2007 show that there were 398 such establishments that operated that year. Of those 398 establishments, 393 (approximately 99%) had fewer than 1,000 employees and, thus, would be deemed small under the applicable SBA size standard. Accordingly, the majority of establishments in this category can be considered small under that standard. On this basis, the Commission continues to estimate that approximately 99% or more of the manufacturers of equipment used to provide VoIP in this category are small entities.

114. *Computer Terminal Manufacturing.* This category "comprises establishments primarily engaged in manufacturing computer terminals. Computer terminals are input/output devices that connect with a central computer for processing." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data for 2007, there were 43 establishments in this category that operated that year. Of this total, all 43 had less than 500 employees. Consequently, the Commission estimates that the majority of these establishments are small entities.

Manufacturers of Equipment To Provide Electronic Messaging

115. Entities that manufacture equipment (other than software) used to provide electronic messaging services are generally found in one of three Census Bureau categories: "Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing," "Electronic Computer Manufacturing," or "Telephone Apparatus Manufacturing."

116. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this industry as comprising "establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by the establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment." The SBA has established a size standard for this industry that classifies any business in this industry as small if it has 750 or fewer employees. Census Bureau data for 2007 indicate that in that year 939 such businesses operated. Of that number, 912 businesses operated with less than 500 employees. Based on this data, the Commission concludes that a majority of businesses in this industry are small by the SBA standard.

117. *Electronic Computer Manufacturing.* This category "comprises establishments primarily engaged in manufacturing and/or assembling electronic computers, such as mainframes, personal computers, workstations, laptops, and computer servers. Computers can be analog, digital, or hybrid. Digital computers, the most common type, are devices that do all of the following: (1) Store the processing program or programs and the data immediately necessary for the execution of the program; (2) can be freely programmed in accordance with the requirements of the user; (3) perform arithmetical computations specified by the user; and (4) execute, without human intervention, a processing program that requires the computer to modify its execution by logical decision during the processing run. Analog computers are capable of simulating mathematical models and contain at least analog, control, and programming elements. The manufacture of computers includes the assembly or integration of processors, coprocessors, memory, storage, and input/output devices into a user-programmable final product." The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data for 2007, there were 425 establishments in this category that operated that year. Of these, 419 had less 1,000 employees. Consequently, the Commission estimates that the majority of these establishments are small entities.

Manufacturers of Equipment To Provide Interoperable Video Conferencing Services

118. *Other Communications Equipment Manufacturing.* Entities that manufacture equipment used to provide interoperable and other video conferencing services are generally found in the Census Bureau category: "Other Communications Equipment Manufacturing." The Census Bureau defines this category to include: ". . . establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment)." In this category, the SBA has deemed a business manufacturing other communications equipment to be small if it has fewer than 750 employees. For this category of manufacturers, Census data for 2007 show that there were 452 such establishments that operated that year. Of those 452 establishments, all 452 (100%) had fewer than 1,000 employees and 448 of those 452 (approximately 99%) had fewer than 500 employees. Between these two figures, the Commission estimates that about 450 establishments (approximately 99.6%) had fewer than 750 employees and, thus, would be considered small under the applicable SBA size standard. Accordingly, the majority of establishments in this category can be considered small under that standard. On this basis, Commission estimates that approximately 99.6% or more of the manufacturers of equipment used to provide interoperable and other video conferencing services are small entities.

Manufacturers of Software

119. Entities that publish software used to provide interconnected VoIP, non-interconnected VoIP, electronic messaging services, or interoperable video conferencing services are found in the Census Bureau category "Software Publishers."

120. *Software Publishers.* This category "comprises establishments primarily engaged in computer software publishing or publishing and reproduction. This industry comprises establishments primarily engaged in computer software publishing or publishing and reproduction. Establishments in this industry carry out operations necessary for producing and distributing computer software, such as designing, providing documentation, assisting in installation, and providing support services to software purchasers. These establishments may design, develop, and publish, or publish only." The SBA has developed a small business size standard for software publishers, which consists of all such firms with gross annual receipts of $38.5 million or less. For this category, census data for 2007 show that there were 5,313 firms that operated for the entire year. Of those

firms, a total of 4,956 had gross annual receipts less than $25 million. Thus, a majority of software publishers potentially affected by the proposals in document FCC 16–53 can be considered small.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

121. Although document FCC 16–53 proposes to require support for RTT in lieu of TTY technologies in all IP-based wireless services, and seeks comment on whether to require the implementation of RTT in IP-based wireline networks, document FCC 16–53, for the most part, does not propose or seek comment on new or modified reporting, recordkeeping, and other compliance requirements. However, document FCC 16–53 seeks comment on the best means of informing the public, including businesses, governmental agencies, and individuals with disabilities who will be directly affected by the transition, about the migration from TTY technology to RTT and the mechanics of how this technology will work.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

122. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): "(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities."

123. Document FCC 16–53 proposes rules intended to replace obsolete TTY technology with RTT to ensure consumer access to IP services via wireless text-based communications and seeks comment on whether to do the same for wireline text-based communications. RTT technology may simplify the accessibility obligations of small businesses, because RTT allows calls to be made using the built-in functionality of a wide selection of off-the shelf devices, and thus may alleviate the high costs and challenges faced by small businesses and customers in locating dedicated external assistive devices, such as specialty phones. Additionally, with the proposal to phase out TTY technology, the burden is reduced for small entities and emergency call centers to maintain such technology in the long term.

124. The Commission proposes an implementation deadline for RTT technology of December 31, 2017, for the wireless providers that offer nationwide service, and manufacturers of end user devices authorized for their services, and to reduce the burden and relieve possible adverse economic impact on small entities, seeks comment on an appropriate deadline for all other wireless providers and equipment manufacturers. In addition, the Commission seeks comment from providers of wireline VoIP services, including small entities, on the appropriate timing for incorporation of RTT capabilities into wireline VoIP services and end user devices.

125. In document FCC 16–53, while the Commission proposes a "safe harbor" technical standard to ensure RTT interoperability, it proposes to allow service providers and carriers to use alternative protocols for RTT, provided that they are interoperable. Further, throughout the item, flexibility is integrated in the proposed requirements in order to take into consideration the limitations of small businesses. For instance, the proposed requirement that equipment manufacturers supporting RTT offer certain functions as native features on VoIP-enabled terminal devices that can send, receive, and display text is subject to the condition that such features be achievable. As such, the Commission anticipates that these proposals will have little to no impact on small entities that are eligible to claim that the requirement is not achievable.

126. The Commission believes that any requirement for service providers and manufacturers to implement outreach and notification to consumers about the transition from TTY to RTT will not require significant additional resources for small entities, and in any event would be outweighed by the need for consumers to understand the changes in the services and associated equipment that they will be receiving.

Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's Proposals

127. None.

Ordering Clauses

Pursuant to sections 4(i), 225, 255, 301, 303(r), 316, 403, 715, and 716 of the Communications Act of 1934, as amended, and section 106 of the CVAA, 47 U.S.C. 154(i), 225, 255, 301, 303(r), 316, 403, 615c, 616, 617, document FCC 16–53 IS ADOPTED.

The Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of document FCC 16–53, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 6

Individuals with disabilities, Access to telecommunication service and equipment, and Customer premise equipment.

47 CFR Part 7

Individuals with disabilities, Access to voice mail and interactive menu services and equipment.

47 CFR Part 14

Individuals with disabilities, Access to advanced communication services and equipment.

47 CFR Part 20

Commercial mobile services, Individuals with disabilities, Access to 911 services.

47 CFR Part 64

Telecommunications relay services, Individuals with disabilities.

47 CFR Part 67

Real-time text, Individuals with disabilities.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 6, 7, 14, 20, 64, and 67 as follows:

PART 6—ACCESS TO TELECOMMUNICATIONS SERVICE, TELECOMMUNICATIONS EQUIPMENT AND CUSTOMER PREMISES EQUIPMENT BY PERSONS WITH DISABILITIES

■ 1. The authority citation for part 6 continues to read as follows:

Authority: 47 U.S.C. 151–154, 251, 255, and 303(r).

■ 2. Amend § 6.3 by adding paragraphs (a)(3), (b)(5), (m), and (n) to read as follows:

§ 6.3 Definitions.

(a) * * *

(3) *Real-Time Text.* Effective December 31, 2017, for wireless VoIP services and text-capable user devices

used with such services, the service or device supports real-time text communications, in accordance with 47 CFR part 67.

(b) * * *

(5) *Wireless VoIP Exemption.* Wireless VoIP services and equipment used with such services are not required to provide TTY connectability and TTY signal compatibility if such services and equipment support real-time text, in accordance with 47 CFR part 67.

* * * * *

(m) The term *real-time text* shall have the meaning set forth in § 67.1 of this chapter.

(n) The term *text-capable user device* means customer premises equipment that is able to send, receive, and display text.

PART 7—ACCESS TO VOICEMAIL AND INTERACTIVE MENU SERVICES AND EQUIPMENT BY PEOPLE WITH DISABILITIES

■ 3. The authority citation for part 7 continues to read as follows:

Authority: 47 U.S.C. 1, 154(i), 154(j), 208, and 255.

■ 4. Amend § 7.3 by adding paragraphs (a)(3), (b)(5), (n), and (o) to read as follows:

§ 7.3 Definitions.

(a) * * *

(3) *Real-Time Text.* Effective December 31, 2017, for wireless VoIP services and text-capable user devices used with such services, the service or equipment supports real-time text communications, in accordance with 47 CFR part 67.

(b) * * *

(5) *Wireless VoIP Exemption.* Wireless VoIP services and equipment are not required to provide TTY connectability and TTY signal compatibility if such services and equipment support real-time text, in accordance with 47 CFR part 67.

* * * * *

(n) The term *real-time text* shall have the meaning set forth in § 67.1 of this chapter.

(o) The term *text-capable user device* means customer premises equipment that is able to send, receive, and display text.

PART 14—ACCESS TO ADVANCED COMMUNICATIONS SERVICES AND EQUIPMENT BY PEOPLE WITH DISABILITIES

■ 5. The authority citation for part 14 continues to read as follows:

Authority: 47 U.S.C. 151–154, 255, 303, 403, 503, 617, 618, 619 unless otherwise noted.

■ 6. Amend § 14.10 by adding paragraphs (w) and (x) to read as follows:

§ 14.10 Definitions.

* * * * *

(w) The term *real-time text* shall have the meaning set forth in § 67.1 of this chapter.

(x) The term *text-capable user device* means end user equipment that is able to send, receive, and display text.

■ 7. Amend § 14.21 by adding paragraphs (b)(3) and (d)(5) to read as follows:

§ 14.21 Performance Objectives.

* * * * *

(b) * * *

(3) *Real-Time Text.* Effective July 31, 2017, for wireless VoIP services and text-capable user devices used with such services, the service or device supports real-time text communications, in accordance with 47 CFR part 67.

* * * * *

(d) * * *

(5) *Wireless VoIP Exemption.* Wireless VoIP services and equipment are not required to provide TTY connectability and TTY signal compatibility if such services and equipment support real-time text, in accordance with 47 CFR part 67.

PART 20—COMMERCIAL MOBILE SERVICES

■ 8. The authority citation for part 20 continues to read as follows:

Authority: 47 U.S.C. 151, 152(a), 154(i), 157, 160, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), 332, 610, 615, 615a, 615b, 615c.

■ 9. Amend § 20.18 by revising paragraph (c) to read as follows:

§ 20.18 911 Service.

* * * * *

(c) *Access to 911 services.* (1) Except as provided in paragraph (c)(2) of this section, CMRS providers subject to this section must be capable of transmitting 911 calls from individuals who are deaf, hard of hearing, speech-disabled, and deaf-blind through the use of Text Telephone Devices (TTY), except that CMRS providers transmitting over IP facilities are not subject to this requirement if the CMRS provider supports real-time text communications, in accordance with 47 CFR part 67.

(2) Notwithstanding any other limitation of coverage in this section, the requirements of this paragraph (c)(2) apply to providers of digital mobile service in the United States to the extent that they offer terrestrial mobile service that enables two-way real-time voice communications among members of the public or a substantial portion of the public. Effective December 31, 2017, such service providers transmitting over IP facilities shall support 911 access via real-time text communications for individuals who are deaf, hard of hearing, speech-disabled, and deaf-blind, in accordance with 47 CFR part 67.

* * * * *

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 10. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k), 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, 254(k), 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, unless otherwise noted.

■ 11. Amend § 64.601 by revising paragraphs (a)(13), (a)(15), and (a)(42), and adding paragraph (a)(46), to read as follows:

§ 64.601 Definitions and provisions of general applicability.

* * * * *

(a)(13) *Hearing carry over (HCO).* A form of TRS where the person with the speech disability is able to listen to the other end user and, in reply, the CA speaks the text as typed by the person with the speech disability. The CA does not type any conversation. Two-line HCO is an HCO service that allows TRS users to use one telephone line for hearing and the other for sending TTY messages. HCO-to-TTY allows a relay conversation to take place between an HCO user and a TTY user. HCO-to-RTT is an HCO service that allows a relay conversation to take place between an HCO user and an RTT user. HCO-to-HCO allows a relay conversation to take place between two HCO users.

* * * * *

(15) *Internet-based TRS (iTRS).* A telecommunications relay service (TRS) in which an individual with a hearing or a speech disability connects to a TRS communications assistant using an Internet Protocol-enabled device via the Internet, rather than the public switched telephone network. Except as authorized or required by the Commission, Internet-based TRS does not include the use of a text telephone (TTY) or real-time text (RTT) over an interconnected voice over Internet Protocol service.

* * * * *

(42) *Voice carry over (VCO).* A form of TRS where the person with the hearing disability is able to speak

directly to the other end user. The CA types the response back to the person with the hearing disability. The CA does not voice the conversation. Two-line VCO is a VCO service that allows TRS users to use one telephone line for voicing and the other for receiving TTY messages. A VCO-to-TTY TRS call allows a relay conversation to take place between a VCO user and a TTY user. VCO-to-RTT is a VCO service that allows a relay conversation to take place between a VCO user and an RTT user. VCO-to-VCO allows a relay conversation to take place between two VCO users.

* * * * *

(46) *Real-Time Text (RTT).* The term *real-time text* shall have the meaning set forth in § 67.1 of this chapter.

* * * * *

■ 12. Amend § 64.603 by revising the introductory text to read as follows:

§ 64.603 Provision of services.

Each common carrier providing telephone voice transmission services shall provide, in compliance with the regulations prescribed herein, throughout the area in which it offers services, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers, including relay services accessed via RTT communications. Interstate Spanish language relay service shall be provided. Speech-to-speech relay service also shall be provided, except that speech-to-speech relay service need not be provided by IP Relay providers, VRS providers, captioned telephone relay service providers, and IP CTS providers. In addition, each common carrier providing telephone voice transmission services shall provide access via the 711 dialing code to all relay services as a toll free call. Wireless VoIP service providers are not required to provide such access to TTY users if they provide 711 dialing code access by supporting real-time text communications, in accordance with 47 CFR part 67. Effective [insert date], wireless VoIP service providers shall provide 711 dialing code access by supporting real-time text communications, in accordance with 47 CFR part 67.

* * * * *

■ 13. Amend § 64.604 by revising paragraphs (a)(1)(v) and (vii) to read as follows:

§ 64.604 Mandatory minimum standards.

(a) * * *

(1) * * *

(v) CAs answering and placing a TTY- or RTT-based TRS call or VRS call shall stay with the call for a minimum of ten minutes.

* * * * *

(vii) TRS shall transmit conversations between TTY or RTT callers and voice callers in real time.

* * * * *

■ 14. Add part 67 to read as follows:

PART 67—REAL-TIME TEXT

Sec.
67.1 Definitions.
67.2 Service Provider and Manufacturer Obligations; Minimum Functionalities.

Authority: 47 U.S.C. 151–154, 225, 251, 255, 301, 303, 307, 309, 316, 615c, 616, 617.

§ 67.1 Definitions.

(a) "Authorized user device" means a handset or other end user device that is authorized by the provider of a covered service for use with that service and is able to send, receive, and display text.

(b) "Covered service" means a VoIP or other service that is permitted or required to support RTT pursuant to parts 6, 7, 14, 20, or 64 of this chapter.

(c) "RFC 4103" means standard Internet Engineering Task Force (IETF) Request for Comments (RFC) 4103, Real-time Transport Protocol Payload for Text Conversation (2005) and any successor protocol published by the IETF. RFC 4103 is available at: *http://www.ietf.org/rfc/rfc4103.txt.*

(d) "RFC 4103-conforming" service or user device means a covered service or authorized user device that enables initiation, sending, transmission, reception, and display of RTT communications in conformity with RFC 4103.

(e) "RFC 4103–TTY gateway" means a gateway that is able to reliably and accurately transcode communications between:

(1) RFC 4103-conforming services and devices and;

(2) Circuit-switched networks that support communications between TTYs.

(f) "Real-time text (RTT)" or "RTT communications" means text communications that are transmitted over Internet Protocol (IP) networks immediately as they are typed, *e.g.,* on a character-by-character basis.

(g) "Support RTT" or "support RTT communications" means to enable users to initiate, send, transmit, receive, and display RTT communications in accordance with the applicable provisions of this part.

§ 67.2 Service Provider and Manufacturer Obligations; minimum functionalities.

(a) *Service Provider Obligations.* A provider of a covered service shall ensure that its service and all authorized user devices using its service support RTT in compliance with this section.

(b) *Manufacturer Obligations.* A manufacturer shall ensure that its authorized user devices support RTT in compliance with this section.

(c) *RTT–RTT Interoperability.* Covered services and authorized user devices shall be interoperable with other services and devices that support RTT in accordance with this part. RFC 4103-conforming services and user devices shall be deemed to comply with this paragraph (c). Other covered services or authorized user devices shall be deemed to comply if RTT communications between such service or user device and an RFC 4103-conforming service or user device are reliably and accurately transcoded

(1) To and from RFC 4103, or

(2) To and from an internetworking protocol mutually agreed-upon with the owner of the network serving the RFC 4103-conforming service or device.

(d) *RTT–TTY Interoperability.* Covered services and authorized user devices shall be interoperable with TTYs connected to other networks. Covered services and authorized user devices shall be deemed to comply with this paragraph (d) if communications to and from such TTYs:

(1) Pass through an RFC 4103–TTY gateway, or

(2) Are reliably and accurately transcoded to and from an internetworking protocol mutually agreed-upon with the owner of the network serving the TTY.

(e) *Device Portability.* Authorized user devices shall be portable among service providers for RTT communications to the same extent as for voice communications.

(f) *Features and Capabilities.* Covered services and authorized user devices shall enable the user to:

(1) Initiate and receive RTT calls to and from the same telephone numbers for which they initiate and receive voice calls;

(2) Transmit and receive RTT communications to and from any 911 public safety answering point (PSAP) in the United States;

(3) Transmit text instantly, so that each text character appears on the receiving device within one second of when it is generated on the sending device, with no more than 0.2 percent character error rate;

(4) Send and receive text and voice simultaneously in both directions on the same call using a single device;

(5) Transfer RTT calls and initiate conference calls using the same procedures used for voice communication;

(6) Use RTT to communicate with and retrieve messages from messaging, automated attendant, and interactive voice response systems; and

(7) Transmit caller identification and conduct similar telecommunication functions with RTT communications.

[FR Doc. 2016–12057 Filed 5–24–16; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 4, 23, and 52

[FAR Case 2015–024; Docket No. 2015–0024, Sequence No. 1]

RIN 9000–AN20

Federal Acquisition Regulation: Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation (FAR Case 2015–024)

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to create an annual representation within the System for Award Management for vendors to indicate if and where they publicly disclose greenhouse gas emissions and greenhouse gas reduction goals or targets. This information will help the Government assess supplier greenhouse gas management practices and assist agencies in developing strategies to engage with contractors to reduce supply chain emissions, as directed in the Executive Order on Planning for Federal Sustainability in the Next Decade.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before July 25, 2016 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2015–024 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for "FAR Case 2015–024". Select the link "Comment Now" that corresponds with "FAR Case 2015–024". Follow the instructions provided on the screen. Please include your name, company name (if any), and "FAR Case 2015–024" on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001.

Instructions: Please submit comments only and cite "FAR Case 2015–024: Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation" in all correspondence related to this case. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Charles Gray, Procurement Analyst, at 703–795–6328 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755.

SUPPLEMENTARY INFORMATION:

I. Background

President Obama has made greenhouse gas (GHG) emissions reduction a priority. In 2015, the Administration announced a new target to reduce Federal Government emissions by 40 percent below 2008 levels by 2025. Through Executive Order (E.O.) 13693, Planning for Federal Sustainability in the Next Decade (published at 80 FR 15871, on March 19, 2015), the President established a strategy to reduce GHG emissions across Federal operations and the supply chain, including specific actions to better understand and manage the implications of supply chain emissions. To that end, E.O. 13693 requires the seven largest procuring agencies to implement procurements that take into consideration contractor GHG emissions and directs the Council on Environmental Quality to release an annual inventory of major suppliers that includes information on whether those suppliers publicly disclose GHG emissions and GHG reduction targets. E.O. 13693 supersedes E.O.s 13423 and 13514.

In order to identify opportunities to reduce supply chain emissions, develop and implement procurements that incorporate consideration of those emissions, and develop an accurate annual inventory that includes contractor GHG management practices, greater insight into the scope of GHG management by companies seeking to do business with the Federal Government is needed. This information will help the Government assess supplier GHG management practices and assist agencies in developing strategies to engage with contractors to reduce supply chain emissions as directed in E.O. 13693.

Public disclosure of GHG emissions and reduction goals or targets has become standard practice in many industries, and companies are increasingly asking their own suppliers about their GHG management practices. Performing a GHG inventory provides insight into operations, spurs innovation, and helps identify opportunities for efficiency and savings that can result in both environmental and financial benefits. By asking suppliers whether or not they publicly report emissions and reduction targets, the Federal Government will have accurate, up-to-date information on its suppliers. An annual representation will promote transparency and demonstrate the Federal Government's commitment to reducing supply chain emissions. Furthermore, by promoting GHG management and emissions reductions in its supply chain, the Federal Government will encourage supplier innovation, greater efficiency, and cost savings, benefitting both the Government and suppliers and adding value to the procurement process.

II. Discussion and Analysis

Accordingly, DoD, GSA, and NASA are proposing to revise the FAR to add an annual representation within the System for Award Management (SAM) for offerors to indicate if and where they publicly disclose GHG emissions and GHG reduction goals or targets. This representation would be mandatory only for vendors who received $7.5 million or more in Federal contract awards in the preceding Federal fiscal year. The representation would be voluntary for all other vendors. Additionally, as long as the vendor's emissions are reported publicly—either by the entity itself or rolled up into the public emissions report of a parent company—the emissions would be considered publicly reported.

In addition to adding the new representation at FAR 52.223–ZZ, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation, this rule proposes to—

- Revise the definition of "greenhouse gases" at FAR 23.001 to add nitrogen trifluoride, in accordance with the definition in section 19 of E.O. 13693;

- Update the scope sections at FAR sections 23.000 and 23.800;
- Revise the authorities at FAR section 23.801 to add the new E.O. and delete the superseded E.O.s 13423 and 13514;
- Add a new FAR section 23.803, Contractor public disclosure of greenhouse gas emissions and reduction goals (current section 23.803 is redesignated as 23.802);
- Add a prescription at FAR section 23.804(b) for use of the new representation provision 52.223–ZZ. The provision will be required as an annual representation whenever provision 52.204–7 is included in the solicitation. It is therefore applicable to all solicitations, including solicitations for the acquisition of commercial items (including commercially available off-the-shelf items) and acquisitions that do not exceed the simplified acquisition threshold, except as provided in FAR section 4.1102(a); and
- Make other conforming changes in FAR sections 4.1202, 52.204–8, and 52.212–3.

Additionally, in furtherance of E.O. 13653, Preparing the United States for the Impacts of Climate Change (published at 78 FR 66819, on November 1, 2013), DOD, GSA, and NASA are considering the development of means and methods to enable agencies to evaluate and reduce climate change related risks to, and vulnerabilities in, agency operations and missions in both the short and long term, with respect to agency suppliers, supply chain, real property investments, and capital equipment purchases. This consideration reflects growing Federal and public interest in better understanding operational and supply chain risks facing agency suppliers and steps those suppliers are taking to identify and manage those risks. Agency suppliers that are public companies are already subject to requirements to disclose material risks, including relevant risks associated with climate change, per Securities and Exchange Commission Interpretation: Commission Guidance Regarding Disclosure Related to Climate Change (Release Nos. 33–9106; 34–61469; FR–82), including impacts to personnel, physical assets, supply chain and distribution chain. It is in this context that DOD, GSA, and NASA are considering approaches to make disclosures of climate change risk analyses from Government suppliers available to agencies to help inform agency inventory and management of climate related risks to Federal facilities, operations, and missions, including supply chains. Such disclosures might also include whether information is made available to the public, to allow agencies to access the information rather than asking companies to submit reports to the Government. Approaches could include representations like one or more of the following:

> The Offeror, or its immediate owner or highest-level owner, [ ] does, [ ] does not assess risks they face as a result of extreme weather and other effects of climate change, including physical impacts and risks.
>
> The Offeror, or its immediate owner or highest-level owner, publicly [ ] does, [ ] does not disclose risks they face as a result of extreme weather and other effects of climate change, including physical impacts and risks.
>
> If the Offeror files with the Securities and Exchange Commission (SEC), the Offeror's SEC Regulation S–K filing or that of its immediate owner or highest-level owner [ ] does, [ ] does not discuss the risks they face as a result of extreme weather and other effects of climate change, including physical impacts and risks.

DOD, GSA, and NASA welcome thoughts on these and/or other possible FAR revisions addressing climate change that might be appropriately considered to further the objectives described above.

III. Applicability to Acquisitions not Greater Than the Simplified Acquisition Threshold, Commercial Items, and Commercial Off-the-Shelf Items

The Federal Acquisition Regulatory Council has made preliminary determinations that the rule will apply, in certain circumstances, to acquisitions under the simplified acquisition threshold (SAT), acquisitions of commercial items, and commercially available off-the-shelf (COTS) items—namely those situations where the contractor has been awarded contracts of more than $7.5 million in goods and services during the prior Government fiscal year. In making its initial determination the FAR Council considered the following factors: (i) The benefits of the policy in furthering Administration goals; (ii) the extent to which the benefits of the policy would be reduced if exemptions are provided; and (iii) the burden on contractors if the policy is applied to these categories of spend.

With respect to the first factor, as explained above, the President has made GHG emissions reduction a priority and E.O. 13693 establishes a strategy to reduce GHG emissions across Federal operations and the supply chain that is rooted in developing an inventory of contractor GHG management practices so that the Government can more fully understand the current state of activity by companies doing business with the Government and work with contractors over time to develop appropriate strategies to reduce supply chain emissions. Unfortunately, there is currently no single place where this information can be easily evaluated and no established method to collect this information. This rule will address that shortcoming and facilitate the Administration's goal by making data available in a standardized format to enhance the Federal Government's ability to track GHG management trends within the Federal supply chain and help to inform agency procurement strategies to reduce supply chain emissions.

With respect to the second factor—impact of excluding commercial items and COTS purchases on the overall benefits of the underlying policy—the FAR Council notes that GHG reporting is becoming increasingly commonplace in the commercial marketplace. Because reporting is done annually by contractors and not by individual acquisition, the FAR Council is concerned that if an exclusion were provided to sellers of commercial items and COTS, a large number of contractors that sell in both the commercial and Federal marketplace would be exempted and the rule would fail at providing the type of information and insight that is needed to help agencies assess supplier GHG management practices. As a general matter, the FAR Council does not seek to burden small businesses or other entities that primarily transact in amounts under the SAT and believes by setting a threshold of $7.5 million, most of those sellers will not be covered.

With respect to the third factor, the FAR Council has sought to minimize burden associated with the disclosure requirement. Specifically, the disclosure will apply only to major Federal suppliers who have been awarded contracts totaling more than $7.5 million in goods and services in the prior Government fiscal year. Based on Fiscal Year (FY) 2015 data, the FAR Council expects this requirement will cover approximately 5,500 unique entities, including about 2,700 small businesses. This represents approximately 3.5 percent of total entities that did business with the Federal Government in FY 2015, and 2.6 percent of small businesses. The FAR Council projects a minimal paperwork burden associated with the disclosure, approximately .25 hours per response for annual reporting for the 5,500 contractor, or 1,375 hours (see discussion on the Paperwork Reduction Act under section VI).

Accordingly, for the reasons set forth above, the FAR Council has made a preliminary determination that it is in the best interest of the Government not to exclude application of the rule for acquisitions, or sellers, of commercial items or COTS, or purchases below the SAT.

Since the rule is not based in statute, the formal determination requirements of 41 U.S.C. 1905, 1906, and 1907 do not apply, but the FAR Council is providing this discussion as part of its commitment to transparency and accountability in the application of new regulatory requirements to these purchases and will consider public feedback in response to this discussion before making a final determination on the scope of the final rule.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This proposed rule is not a major rule under 5 U.S.C. 804.

V. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Nevertheless, an Initial Regulatory Flexibility Analysis (IRFA) has been performed, and is summarized as follows:

> This rule proposes to add a representation that will provide information to help the Government assess supplier greenhouse gas (GHG) management practices and assist agencies in developing strategies to engage with contractors to reduce supply chain emissions, as directed in the Executive Order (E.O.) 13693, Planning for Federal Sustainability in the Next Decade.
>
> The objective of the rule is to identify opportunities to reduce supply chain emissions, develop and implement procurements that incorporate consideration of those emissions, and develop an accurate annual inventory that includes contractor GHG management practices, greater insight into the scope of GHG management by companies seeking to do business with the Federal Government is needed. The legal basis for the rule is E.O. 13693.
>
> As only those entities that received Federal contract awards in excess of $7.5 million in the preceding *Federal fiscal year* are required to make the representation, we anticipate this rule will apply to approximately 2,700 small businesses based on Fiscal Year 15 Federal Procurement Data System data.
>
> The rule proposes a representation, voluntary for entities who received under $7.5 million in contract awards in the *Federal fiscal year* before making the representation, to indicate if and where they publicly disclose GHG emissions and GHG reduction goals or targets. There is no requirement for such public disclosure.
>
> The rule does not duplicate, overlap, or conflict with any other Federal rules.
>
> The impact of this rule on small entities has been minimized because entities need only make the representation if they received over $7.5 million in Federal contract awards in the prior *Federal fiscal year* before making the representation.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (FAR Case 2015–024), in correspondence.

VI. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. The proposed rule contains information collection requirements. Accordingly, the Regulatory Secretariat has submitted a request for approval of a new information collection requirement concerning the disclosure of greenhouse gas emissions and reduction goals to the Office of Management and Budget.

A. Public reporting burden for this collection of information is estimated to average .25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden estimated as follows:

Respondents: 5,500.

Responses per respondent: 1.

Total annual responses: 5,500.

Preparation hours per response: .25.

Total response burden hours: 1,375.

B. Request for Comments Regarding Paperwork Burden. Submit comments, including suggestions for reducing this burden, not later than July 25, 2016 to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Requesters may obtain a copy of the supporting statement from the General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001. Please cite OMB Control Number 9000–0194, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation, in all correspondence.

List of Subjects in 48 CFR Parts 1, 4, 23, and 52

Government procurement.

Dated: May 19, 2016.

William F. Clark,

Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Therefore, the DoD, GSA, and NASA propose amending 48 CFR parts 1, 4, 23, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 4, 23, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106 by adding to the table FAR segment "52.223–ZZ" and its corresponding OMB control number "9000–XXXX" in numerical order.

PART 4—ADMINISTRATIVE MATTERS

■ 3. Amend section 4.1202 by redesignating paragraphs (a)(23) through (31) as paragraphs (a)(24) through (32), respectively; and adding new paragraph (a)(23) to read as follows:

4.1202 Solicitation provision and contract clause

(a) * * *

(23) 52.223–ZZ, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation.

* * * * *

PART 23—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

23.000 [Amended]

■ 4. Amend section 23.000 by removing from the end of the introductory paragraph "vehicles by–" and adding "vehicles." in its place; and removing paragraphs (a) through (g).

23.001 [Amended]

■ 5. Amend section 23.001 by removing from the definition "Greenhouse gases" "perflourocarbons, and" and adding "perflourocarbons, nitrogen triflouride, and" in its place.

■ 6. Revise section 23.800 to read as follows:

23.800 Scope of subpart

This subpart—

(a) Sets forth policies and procedures for the acquisition of items which contain, use, or are manufactured with ozone-depleting substances; and

(b) Addresses contractor public disclosure of greenhouse gas emissions and reduction goals.

■ 7. Amend section 23.801 by—

■ a. Removing from paragraph (b) "Title" and adding "title" in its place;

■ b. Revising paragraph (c);

■ c. Removing paragraph (d); and

■ d. Redesignating paragraph (e) as paragraph (d).

The revisions read as follows:

23.801 Authorities

* * * * *

(c) Executive Order 13693 of March 19, 2015, Planning for Federal Sustainability in the Next Decade.

* * * * *

23.802 [Removed]

■ 8. Remove section 23.802, as amended at 81 FR 30435 (May 16, 2016), effective June 15, 2016.

23.803 [Redesignated as 23.802]

■ 9. Redesignate section 23.803, as amended at 81 FR 30435 (May 16, 2016), effective June 15, 2016, as section 23.802.

■ 10. Add new section 23.803, as amended at 81 FR 30435 (May 16, 2016), effective June 15, 2016, to read as follows:

23.803 Contractor public disclosure of greenhouse gas emissions and reduction goals

(a) It is the policy of the Federal Government to lead efforts to reduce greenhouse gas emissions at the Federal level in accordance with Executive Order 13693 and the President's Climate Action Plan of June 2013.

(b) In order to enable the Federal Government to better understand both direct and indirect greenhouse gas emissions that result from Federal activities, the Federal Government requires offerors that received Federal contracts that equal $7.5 million or more in the prior Federal fiscal year to represent whether they publicly disclose greenhouse gas emissions and/or a quantitative greenhouse gas emissions reduction goal, and provide the Web site for any such disclosures.

■ 11. Amend section 23.804, as amended at 81 FR 30436 (May 16, 2016), effective June 15, 2016 by—

■ a. Revising the section heading;

■ b. Redesignating paragraphs (a) and (b) as paragraphs (a)(1) and (2);

■ c. Redesignating the introductory text as paragraph (a) and revising it; and

■ d. Adding new paragraph (b).

The revisions and addition read as follows:

23.804 Contract provision and clauses.

(a) Except for contracts that will be performed outside the United States and its outlying areas, the contracting officer shall insert the following clauses:

* * * * *

(b) The provision at 52.223–ZZ, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation, is required as an annual representation when 52.204–7, System for Award Management, is included in the solicitation (see 52.204–8, Annual Representations and Certifications). Contracting officers shall not separately include the provision at 52.223–ZZ in solicitations that do not include the provision at 52.204–7.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 12. Amend section 52.204–8 by—

■ a. Revising the date of the provision;

■ b. Redesignating paragraphs (c)(1)(xvii) through (xxii) as paragraphs (c)(1)(xviii) through (xxiii), respectively; and

■ c. Adding new paragraph (c)(xvii).

The revision and addition read as follows:

52.204–8 Annual Representations and Certifications

* * * * *

Annual Representations and Certifications (DATE)

* * * * *

(c)(1) * * *

(xvii) 52.223–ZZ, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation. This provision applies to solicitations that include the clause at 52.204–7.)

* * * * *

■ 13. Amend section 52.212–3 by—

■ a. Revising the date of the provision;

■ b. Removing from the introductory paragraph of the clause and paragraph (b)(2) "(c) through (r)" and adding "(c) through (s)" in its place; and

■ c. Adding paragraph (s).

The revision and addition read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (DATE)

* * * * *

(s) *Public Disclosure of Greenhouse Gas Emissions and Reduction Goals.* Applies in all solicitations that require offerors to register in SAM (52.212–1(k)). *Offeror to check applicable block(s) in paragraph (s)(1) or (2).*

(1) Response to this provision is optional if the Offeror received less than $7.5 million in contract awards in the Federal fiscal year preceding any representation.

(2) *Representation.* (i) The Offeror (itself or through its immediate owner or highest-level owner) publicly [ ] does, [ ] does not disclose greenhouse gas emissions, *i.e.,* makes available on a publicly accessible Web site the results of a greenhouse gas inventory, performed in accordance with the Greenhouse Gas Protocol Corporate Standard or equivalent standard. A publicly accessible Web site includes the supplier's own Web site or via a recognized, third-party greenhouse gas emissions reporting program.

(ii) The Offeror (itself or through its immediate owner or highest-level owner) [ ] does, [ ] does not disclose a quantitative greenhouse gas emissions reduction goal, *i.e.,* a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(3) If the Offeror checked "does" in paragraphs (s)(2)(i) or (s)(2)(ii) of this provision, respectively, the Offeror shall provide the publicly accessible Web site(s) where greenhouse gas emissions and/or reduction goals are reported:______.

(End of provision)

52.223–11 [Amended]

■ 14. Amend section 52.223–11 by removing from the introductory paragraph “in 23.804(a)” and adding “in 23.804(a)(1)” in its place.

52.212–12 [Amended]

■ 15. Amend section 52.223–12 by removing from the introductory paragraph “in 23.804(b)” and adding “in 23.804(a)(2)” in its place.

■ 16. Add section 52.223–ZZ to read as follows:

52.223–ZZ Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation.

As prescribed in 23.804(b), insert the following provision:

Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation (Date)

(a) Response to this provision is optional if the Offeror received less than $7.5 million in contract awards in the Federal fiscal year preceding any representation.

(b) *Representation. [Offeror to check applicable blocks in (1) or (2).]*

(1) The Offeror (itself or through its immediate owner or highest-level owner) publicly [ ] does, [ ] does not disclose greenhouse gas emissions, *i.e.*, makes available on a publicly accessible Web site the results of a greenhouse gas inventory, performed in accordance with the Greenhouse Gas Protocol Corporate Standard or equivalent standard. A publicly accessible Web site includes the supplier’s own Web site or via a recognized, third-party greenhouse gas emissions reporting program.

(2) The Offeror (itself or through its immediate owner or highest-level owner [ ] does, [ ] does not disclose a quantitative greenhouse gas emissions reduction goal, *i.e.*, a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(c) If the Offeror checked “does” in paragraphs (b)(1) or (b)(2) of this provision respectively, the Offeror shall provide the publicly accessible Web site(s) where greenhouse gas emissions and/or reduction goals are reported:_____.

(End of provision)

[FR Doc. 2016–12226 Filed 5–24–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

RIN 0648–BF37

Mariana Archipelago Fisheries; Remove the CNMI Medium and Large Vessel Bottomfish Prohibited Areas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of fishery ecosystem plan amendment; request for comments.

SUMMARY: NMFS announces that the Western Pacific Fishery Management Council (Council) proposes to amend the Fishery Ecosystem Plan for the Mariana Archipelago. If approved, Amendment 4 would remove the medium and large vessel bottomfish (BF) prohibited fishing areas in the Commonwealth of the Northern Mariana Islands (CNMI). Amendment 4 considers the best available scientific, commercial, and other information about the fisheries, and supports the long-term sustainability of fishery resources.

DATES: NMFS must receive comments on the proposed amendment by July 25, 2016.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2015–0115, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0115*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd. Bldg. 176, Honolulu, HI 96818.

Instructions: NMFS may not consider comments sent by any other method, to any other address or individual, or received after the end of the comment period. All comments received are a part of the public record, and NMFS will generally post them for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

The Council prepared Amendment 4, including an environmental assessment and regulatory impact review, that provides background information on the proposed action. The amendment is available from *www.regulations.gov* or the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, *www.wpcouncil.org.*

FOR FURTHER INFORMATION CONTACT: Sarah Ellgen, Sustainable Fisheries Division, NMFS PIR, 808–725–5173.

SUPPLEMENTARY INFORMATION: The Council and NMFS manage the bottomfish fishery in federal waters in the CNMI under the Fishery Ecosystem Plan for the Mariana Archipelago (Mariana FEP). The Mariana FEP and implementing Federal regulations currently prohibit medium and large vessels (vessels over 40 ft) from fishing for bottomfish in certain Federal waters around the CNMI. The prohibited areas include waters within approximately 50 nautical miles (nm) of the Southern Islands (*i.e.*, Rota, Aquijan, Tinian, Saipan and Farallon de Medenilla) and within 10 nm of Alamagan Island.

The Council established the prohibited areas in 2008 in response to concerns expressed by CNMI fishermen that Guam bottomfish fishermen would travel to fish in CNMI waters after establishment of the large vessel prohibited fishing area in Guam. CNMI fishermen were concerned that such additional fishing by the vessels from Guam would create localized depletion of bottomfish, gear conflicts, and catch competition.

The CNMI bottomfish fishery has changed since 2008, and the conditions that led the Council and NMFS to establish the prohibited areas are no longer present. Large vessels from Guam have not shown interest in fishing for CNMI bottomfish. The prohibited areas may also be negatively impacting the CNMI bottomfish fishery. Only a few small vessels have been operating on a regular basis, and the few medium and large vessels have faced declining participation, possibly as a result of higher fuel costs that prevent them from traveling beyond the prohibited areas. The CNMI bottomfish fishery may not be achieving optimum yield, and the prohibited areas may be contributing to the potential under-utilization of the bottomfish resource in CNMI.

To address fishery conditions resulting from the BF prohibited areas, the Council recommended that NMFS remove them. The Council and NMFS would continue to manage the fishery under a suite of management requirements that include the specification of annual catch limits and accountability measures, post-season review of catches and effort including against ACLs, requirements for vessel markings, federal catch and sales reporting, and the vessel monitoring system. The fishing requirements for the Marianas Trench Marine National Monument would also remain unchanged.

Amendment 4 is intended to improve the efficiency and economic viability of the CNMI bottomfish fishery. The Council and NMFS will annually review the effects of the proposed amendment. Any future changes would be subject to additional environmental review and opportunity for public review and comment.

NMFS must receive comments on Amendment 4 by the date provided in the **DATES** section to be considered by NMFS in the decision to approve, partially approve, or disapprove the amendment. NMFS soon expects to publish and request public comment on a proposed rule that would implement the measures recommended in Amendment 4.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 20, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–12347 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 81, No. 101
Wednesday, May 25, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Chief Financial Officer

Submission for OMB Review; Comment Request

May 19, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by June 24, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such person are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Office of the Chief Financial Officer

Title: Supplier Credit Audit Recovery.

OMB Control Number: 0505–0026.

Summary of Collection: On March 10, 2010, the President signed a presidential memorandum directing all federal departments and agencies to expand and intensify their use of payment recapture audits. These are audits which offer specialized private auditors financial incentives to root out improper payments, and have been demonstrated through pilot programs to be highly effective. The Office of Management and Budget's Circular A123 Appendix C, offers guidance to implement the requirements of the Improper Payments Elimination and Recovery Act of 2010, which requires agencies to conduct payment recapture audits for each program that expends more than $1 million annually. The authority for this collection can be found under the Improper Payments Elimination and Recovery Act of 2010 (124 Statute 2229, Pub. L. 111–204), under Section C, Recovery Audit Contracts.

Need and Use of the Information: The Office of the Chief Financial Officer (OCFO) sends out a letter to USDA vendors on an annual basis requesting account and payment information as to whether the vendor currently has a credit on their books due back to USDA. If the information is not collected, OCFO would not be able to identify the root cause of improper payments and would not be able to accomplish this without verification of suspected overpayments to suppliers or vendors.

Description of Respondents: Business or other for-profit.

Number of Respondents: 12,299.

Frequency of Responses: Third party disclosure; Reporting: Semi-annually.

Total Burden Hours: 24,598.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–12261 Filed 5–24–16; 8:45 am]

BILLING CODE 3410–KS–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Submission for OMB Review; Comment Request

May 19, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by June 24, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery—FNS.

OMB Control Number: 0584–NEW.

Summary Of Collection: The Food and Nutrition Service (FNS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to comment on the "Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery " for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et. seq.). This collection is being developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery. This notice announces our intent to submit this "fast track" collection to the Office of Management and Budget (OMB) for approval and to solicit comments on specific aspects for the proposed information collection.

Need And Use Of The Information: The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient and timely manner. By qualitative feedback we mean, information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population. This feedback will, (1) provide insights into customer or stakeholder perceptions, experiences and expectations, (2) provide an early warning of issues with service and, (3) focus attention on areas where communication, training or changes in operations might improve delivery of products or services. This collection will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Description of Respondents: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Number of Respondents: 30,000.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 30,000.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–12259 Filed 5–24–16; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Request for Information: Supplemental Nutrition Assistance Program (SNAP) Data Exchange Standardization

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: Section 4016 of the Agricultural Act of 2014 amended Section 11 of the Food and Nutrition Act of 2008 to require FNS to designate data exchange standards to govern both (1) necessary categories of information that SNAP State agencies operating related programs are required under applicable law to electronically exchange with another State agency, and (2) federal reporting and data exchange requirements under applicable law. The Act also directs FNS to consult with an interagency workgroup established by the Office of Management and Budget, which no longer exists, and to consider State government perspectives. As a result, FNS is issuing this Request for Information in order to obtain State government and other stakeholder perspectives as it considers how to best to proceed with establishing data exchange standards.

DATES: Written comments must be received on or before July 25, 2016.

ADDRESSES: Comments may be sent to Jane Duffield, Chief, State Administration Branch, Program Accountability and Administration Division, Food and Nutrition Service (FNS), U.S. Department of Agriculture, 3101 Park Center Drive, Room 818, Alexandria, VA 22302. Comments may also be emailed to *SNAPSAB@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the FNS office located at 3101 Park Center Drive, Alexandria, Virginia, 22302, Room 800, during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday). All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this request for information should be directed to Jane Duffield at (703) 605–4385.

SUPPLEMENTARY INFORMATION: Data standardization can enhance the ability of States and the federal government to administer the SNAP program more effectively by strengthening oversight, improving decision-making by program administrators, and fostering innovation through the greater use of data analytics. Data standardization may also help States and the federal government to reduce improper benefit payments, as well as to improve the detection and prevention of fraud, waste, and abuse by allowing for easier data sharing. Greater use of data sharing may improve program integrity by increasing the accuracy of payments, improving efficiency and case management through increased automation, improving decision-making by expanding verification, and by allowing for better-targeted efforts through data analysis of trends across States and populations served by the program.

With these general interests in mind, FNS is seeking information from stakeholders on the following particular questions:

1. Legislation requires FNS to propose a rule to identify federally required data exchanges, including the specification and timing of the exchanges to be standardized. FNS is also required to address the factors used to determine whether and when to standardize data exchanges, specify State implementation options, and to describe future milestones. Please provide your input on the following questions:

a. Should FNS consider requiring additional data exchanges that are not currently required by SNAP regulations? If so, what additional data exchanges would improve communication between the States and FNS?

b. What frequency should be considered for any data exchange that is currently required by regulation, or any data exchange that is not currently required and is being proposed in response to the preceding question?

c. What implementation options should be available to States in enacting a standardized data exchange?

d. What constraints, if any, would the technologies used to operate existing SNAP eligibility systems have on meeting data exchange requirements?

e. If FNS were to standardize a data exchange, how much time would be required for States to adapt processes and systems to comply?

2. The Act specifies that FNS should not require a change to an existing data exchange standard for Federal reporting if that standard has already been found to be effective and efficient. What criteria should FNS consider to determine whether an existing data

exchange standard is effective and efficient?

3. State agencies already have focused efforts on integrating case management initiatives in order to better coordinate assistance for families with complex service needs across multiple program areas. What factors should FNS consider in a future rule to address SNAP data standardization so as not to adversely impact ongoing or planned initiatives?

4. In promulgating rules, what Federal or State laws should FNS be aware of that either hinder or promote data exchange standards?

5. What factors should FNS consider as part of the data exchange standardization effort to further strengthen client confidentiality? For example, should FNS mandate industry standard security protocols, such as requirements that Social Security Numbers (SSN) be encrypted and that States utilize data masking, or that States may not use SSN as a unique client identifier? If so, how can FNS promote further data interoperability while maintaining data security?

6. Are there any data standardization practices in your current data management process that could apply here, such as standardizing your data field names and definitions, including security classification, and implementing access policies to ensure input data cleansing and output data consistency?

7. Do States provide training to workers involved in the administration and enforcement of SNAP about data sharing?

8. Do States conduct security training with all staff involved in the administration and enforcement of the program that covers the client confidentiality requirements of the Food and Nutrition Act of 2008, as well as the SNAP regulations? If so, please address additional questions below:

a. What is the frequency of the training?

b. Does the State maintain a record of each individual worker's security training history?

c. Does the training cover additional security topics?

9. What factors should FNS consider regarding the impact data exchange standards would have on States that integrate data sources external to the SNAP State agency?

10. What barriers, if any, should FNS consider in implementing federally required data exchanges for SNAP program administration?

11. What factors should FNS consider for States that utilize an enterprise data warehouse for reporting and analyzing data in SNAP as well as across programs?

12. Efforts to promote data interoperability to improve oversight, data analysis, and decision-making are only as good as the quality of the data itself. What factors should FNS consider to strengthen SNAP data integrity in support of data exchange standards?

13. In addition to data exchange standards, should FNS consider additional steps related to this effort, such as providing standardized data sharing agreements for SNAP data?

14. What other concerns or barriers, if any, exist in successfully implementing data exchanges that were not addressed by any of the previous questions that FNS should consider?

Dated: May 10, 2016.

Audrey Rowe,

Administrator, Food and Nutrition Service.

[FR Doc. 2016–12262 Filed 5–24–16; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

WTO Agricultural Quantity-Based Safeguard Trigger Levels

AGENCY: Foreign Agricultural Service, U.S. Department of Agriculture.

ACTION: Notice of product coverage and trigger levels for safeguard measures provided for in the World Trade Organization (WTO) Agreement on Agriculture.

SUMMARY: This notice lists the updated quantity-based trigger levels for products which may be subject to additional import duties under the safeguard provisions of the WTO Agreement on Agriculture. This notice also includes the relevant period applicable for the trigger levels on each of the listed products.

DATES: May 25, 2016.

FOR FURTHER INFORMATION CONTACT: Safeguard Staff, Import Policies and Export Reporting Division, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1020, 1400 Independence Avenue SW., Washington, DC 20250–1020; by telephone (202) 720–0638; or by fax (202) 720–0876.

SUPPLEMENTARY INFORMATION: Article 5 of the WTO Agreement on Agriculture provides that additional import duties may be imposed on imports of products subject to tariffication as a result of the Uruguay Round, if certain conditions are met. The agreement permits additional duties to be charged if the price of an individual shipment of imported products falls below the average price for similar goods imported during the years 1986–88 by a specified percentage. It also permits additional duties to be imposed if the volume of imports of an article exceeds the average of the most recent 3 years for which data are available by 5, 10, or 25 percent, depending on the article. These additional duties may not be imposed on quantities for which minimum or current access commitments were made during the Uruguay Round negotiations, and only one type of safeguard, price or quantity, may be applied at any given time to an article.

Section 405 of the Uruguay Round Agreements Act requires that the President cause to be published in the **Federal Register** information regarding the price and quantity safeguards, including the quantity trigger levels, which must be updated annually based upon import levels during the most recent 3 years. The President delegated this duty to the Secretary of Agriculture in Presidential Proclamation No. 6763, dated December 23, 1994, 60 FR 1005 (Jan. 4, 1995). The Secretary of Agriculture further delegated this duty, which lies with the Administrator of the Foreign Agricultural Service (7 CFR 2.43(a)(2)). The Annex to this notice contains the updated quantity trigger levels.

Additional information on the products subject to safeguards and the additional duties which may apply can be found in subchapter IV of Chapter 99 of the Harmonized Tariff Schedule of the United States (2016) and in the Secretary of Agriculture's Notice of Uruguay Round Agricultural Safeguard Trigger Levels, published in the **Federal Register** at 60 FR 427 (Jan. 4, 1995).

Notice: As provided in Section 405 of the Uruguay Round Agreements Act, consistent with Article 5 of the WTO Agreement on Agriculture, the safeguard quantity trigger levels previously notified are superceded by the levels indicated in the Annex to this notice. The definitions of these products were provided in the Notice of Safeguard Action published in the **Federal Register**, at 60 FR 427 (Jan. 4, 1995).

Issued at Washington, DC, this 25th day of April 2016.

Suzanne Palmieri,

Administrator, Foreign Agricultural Service.

Annex

QUANTITY-BASED SAFEGUARD TRIGGER

Product	Trigger level	Period
Beef	317,530 mt	January 1, 2016 to December 31, 2016.
Mutton	3,316 mt	January 1, 2016 to December 31, 2016.
Cream	2,789 liters	January 1, 2016 to December 31, 2016.
Evaporated or Condensed Milk	1,173,090 kg	January 1, 2016 to December 31, 2016.
Nonfat Dry Milk	525,441 kg	January 1, 2016 to December 31, 2016.
Dried Whole Milk	3,406,679 kg	January 1, 2016 to December 31, 2016.
Dried Cream	586 kg	January 1, 2016 to December 31, 2016.
Dried Whey/Buttermilk	18,198 kg	January 1, 2016 to December 31, 2016.
Butter	13,656,765 kg	January 1, 2016 to December 31, 2016.
Butter Oil and Butter Substitutes	6,076,713 kg	January 1, 2016 to December 31, 2016.
Dairy Mixtures	15,718,595 kg	January 1, 2016 to December 31, 2016.
Blue Cheese	4,865,957 kg	January 1, 2016 to December 31, 2016.
Cheddar Cheese	11,292,096 kg	January 1, 2016 to December 31, 2016.
American-Type Cheese	663,153 kg	January 1, 2016 to December 31, 2016.
Edam/Gouda Cheese	8,161,533 kg	January 1, 2016 to December 31, 2016.
Italian-Type Cheese	19,591,643 kg	January 1, 2016 to December 31, 2016.
Swiss Cheese with Eye Formation	28,790,738 kg	January 1, 2016 to December 31, 2016.
Gruyere Process Cheese	3,745,854 kg	January 1, 2016 to December 31, 2016.
NSPF Cheese	52,603,975 kg	January 1, 2016 to December 31, 2016.
Lowfat Cheese	153,319 kg	January 1, 2016 to December 31, 2016.
Peanuts	19,037 mt	April 1, 2015 to March 31, 2016.
	13,106 mt	April 1, 2016 to March 31, 2017.
Peanut Butter/Paste	3,592 mt	January 1, 2016 to December 31, 2016.
Raw Cane Sugar	676,944 mt	October 1, 2015 to September 30, 2016.
	617,282 mt	October 1, 2016 to September 30, 2017.
Refined Sugar and Syrups	177,579 mt	October 1, 2015 to September 30, 2016.
	355,264 mt	October 1, 2016 to September 30, 2017.
Blended Syrups	87 mt	October 1, 2015 to September 30, 2016.
	106 mt	October 1, 2016 to September 30, 2017.
Articles Over 65% Sugar	385 mt	October 1, 2015 to September 30, 2016.
	415 mt	October 1, 2016 to September 30, 2017.
Articles Over 10% Sugar	20,158 mt	October 1, 2015 to September 30, 2016.
	18,930 mt	October 1, 2016 to September 30, 2017.
Sweetened Cocoa Powder	86 mt	October 1, 2015 to September 30, 2016.
	72 mt	October 1, 2016 to September 30, 2017.
Chocolate Crumb	12,167,560 kg	January 1, 2016 to December 31, 2016.
Lowfat Chocolate Crumb	500,069 kg	January 1, 2016 to December 31, 2016.
Infant Formula Containing Oligosaccharides.	309,726 kg	January 1, 2016 to December 31, 2016.
Mixes and Doughs	230 mt	October 1, 2014 to September 30, 2015.
	234 mt	October 1, 2015 to September 30, 2016.
Mixed Condiments and Seasonings	961 mt	October 1, 2015 to September 30, 2016.
	894 mt	October 1, 2016 to September 30, 2017.
Ice Cream	2,964,185 liters	January 1, 2016 to December 31, 2016.
Animal Feed Containing Milk	27,792 kg	January 1, 2016 to December 31, 2016.
Short Staple Cotton	2,330,949 kg	September 20, 2015 to September 19, 2016.
	1,363,307 kg	September 20, 2016 to September 19, 2017.
Harsh or Rough Cotton	0 kilograms	August 1, 2015 to July 31, 2016.
	13 kg	August 1, 2016 to July 31, 2017.
Medium Staple Cotton	48,783 kg	August 1, 2015 to July 31, 2016.
	0 kg	August 1, 2016 to July 31, 2017.
Extra Long Staple Cotton	1,505,611 kg	August 1, 2015 to July 31, 2016.
	1,270,096 kg	August 1, 2016 to July 31, 2017.
Cotton Waste	793,048 kg	September 20, 2015 to September 19, 2016.
	925,273 kg	September 20, 2016 to September 19, 2017.
Cotton, Processed, Not Spun	2,058 kg	September 20, 2015 to September 19, 2016.
	51 kg	September 20, 2016 to September 19, 2017.

[FR Doc. 2016–12321 Filed 5–24–16; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Advisory Committee for Implementation of the National Forest System Land Management Planning Rule

AGENCY: USDA Forest Service.

ACTION: Call for nominations.

SUMMARY: The National Advisory Committee for Implementation of the National Forest System (NFS) Land Management Planning Rule (Committee) was re-established, in the public interest, on February 3, 2016, to continue providing advice and recommendations on the implementation of the NFS Land Management Planning Rule (Planning

Rule). Therefore, the Secretary of Agriculture is seeking nominations for individuals to be considered as Committee members. The public is invited to submit nominations for membership. Committee information can be found at the following Web site: *http://www.fs.usda.gov/main/planningrule/committee.*

DATES: Written nominations must be received by July 11, 2016. The package must be sent to the address below.

ADDRESSES: Send nominations and applications to USDA Forest Service, NFS—Ecosystem Management Coordination, Mail Stop 1106, 201 14th Street Southwest, Mailstop 1106, Washington, DC 20025; by express mail or overnight courier service. If sent via the U.S. Postal Service, they must be sent to the following address: U.S. Department of Agriculture, Forest Service, Ecosystem Management Coordination, 1400 Independence Avenue Southwest, Mailstop 1106, Washington, DC 20250–1106.

FOR FURTHER INFORMATION CONTACT: Chris French, Designated Federal Officer, by telephone at 202–205–0895 or via email at *cfrench@fs.fed.us;* or Jennifer Helwig, Committee Coordinator, by phone at 202–205–0892 or via email at *jahelwig@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The purpose of the Committee is to provide advice and recommendations on implementation of the Planning Rule. To date, the current Committee officially transmitted their recommendations to improve the transition process for Forest Service leadership and planning teams; recommendations to produce a Planning 101 video; and recommendations for the development of assessments. The current Committee's membership will expire in September 2016. The Committee will be asked to perform the following duties or other requests made by the Secretary of Agriculture or the Chief of the Forest Service:

1. Offer recommendations on outreach efforts, public engagement, and stakeholder collaboration;
2. Offer recommendations on broad scale and multiparty monitoring and other ways to engage partnerships in land management plan revisions;
3. Offer recommendations on communication tools and strategies to help provide greater understanding of the land management planning process; and
4. Offer recommendations on potential best management practices and problem solving resulting from early implementation of the 2012 Planning Rule.

Advisory Committee Organization

This Committee will be comprised of not more than 21 members who provide balanced and broad representation within each of the following three categories of interests:

1. Up to 7 members who represent one or more of the following:
   a. Represent the Affected Public-At-Large,
   b. Hold State-Elected Office (or designee),
   c. Hold County or Local-Elected Office,
   d. Represent American Indian Tribes, and
   e. Represent Youth.
2. Up to 7 members who represent one or more of the following:
   a. National, Regional, or Local Environmental Organizations,
   b. Conservation Organizations or Watershed Associations,
   c. Dispersed Recreation Interests,
   d. Archaeological or Historical interests, and
   e. Scientific Community.
3. Up to 7 members who represent one or more of the following:
   a. Timber Industry,
   b. Grazing or Other Land Use Permit Holders or Other Private Forest Landowners,
   c. Energy and Mineral Development,
   d. Commercial or Recreational Hunting and Fishing Interests, and
   e. Developed Outdoor Recreation, Off-Highway Vehicle Users, or Commercial Recreation Interests.

The Committee will meet three to six times annually or as often as necessary and at such times as designated by the Designated Federal Officer.

The appointment of members to the Committee will be made by the Secretary of Agriculture. Any individual or organization may nominate one or more qualified persons to serve on the Committee. Individuals may also nominate themselves. To be considered for membership, nominees must submit a:

1. Resume describing qualifications for membership to the Committee;
2. Cover letter with a rationale for serving on the Committee and what you can contribute; and
3. Complete form AD–755: Advisory Committee Membership Background Information.

Letters of recommendation are welcome. The form AD–755 may be obtained from the following Web site: *http://www.fs.usda.gov/main/planningrule/committee;* or via email from Jennifer Helwig at *jahelwig@fs.fed.us.* All nominations will be vetted by USDA. The Secretary of Agriculture will appoint committee members to the Committee from the list of qualified applicants.

Members of the Committee will serve taken into account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Dated: May 12, 2015.

Gregory L. Parham,

Assistant Secretary for Administration.

[FR Doc. 2016–12313 Filed 5–24–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tonto National Forest; Pinal County, AZ; Resolution Copper Project and Land Exchange Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of Extension of Public Scoping Period for the Resolution Copper Project and Land Exchange Environmental Impact Statement.

SUMMARY: The Tonto National Forest (TNF) is extending the public scoping period for the Resolution Copper Project and Land Exchange environmental impact statement (EIS). The TNF previously published a notice of intent to prepare an EIS as well as a notice of public scoping in the **Federal Register** on March 18, 2016 [81 FR 14829]. The previous notice provided for public scoping through May 17, 2016.

DATES: Numerous individuals and several organizations requested an extension of the public scoping period, as well as additional public scoping meetings. The TNF Forest Supervisor has decided to accommodate these requests by extending the public scoping period through July 18, 2016 and holding one additional public scoping meeting on June 9, 2016. Comments concerning the scope of the analysis must be received by July 18, 2016.

ADDRESSES: Send written comments to: Resolution EIS Comments, P.O. Box

34468, Phoenix, AZ 85067–4468. Comments may also be sent via email to: *Comments@resolutionmineeis.us,* submitted via Web site at *www.resolutionmineeis.us,* or submitted by leaving a verbal message at 1–866–546–5718.

Written and oral comments may also be submitted during the additional public scoping meeting, which will be held at the Central Arizona College San Tan Campus 3736 E. Bella Vista Rd., San Tan Valley, AZ 85143. The public scoping meeting will be held on June 9, 2016 at 5:00—8:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Nelson, Project Manager, at 602–225–5222 or *mrnelson@fs.fed.us* during normal business hours.

SUPPLEMENTARY INFORMATION: Comments sought by the TNF include specific comments to the proposed action, appropriate information that could be pertinent to analysis of environmental effects, identification of significant issues, and identification of potential alternatives. It is important that reviewers provide their comments at such times and in a manner in which they are useful to the agency's preparation of the EIS. Although comments are welcome at any time during the NEPA review, they will be most useful to us if they are received by July 18, 2016. Comments should clearly articulate the reviewer's concerns. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the agency with the ability to provide the respondent with subsequent environmental documents.

Dated: May 16, 2016.

Neil Bosworth,

Forest Supervisor.

[FR Doc. 2016–12334 Filed 5–24–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection: Youth Conservation Corps Application and Medical History

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service, U.S. Department of Agriculture; the Fish and Wildlife Service and National Park Service, U.S. Department of Interior are seeking comments from all interested individuals and organizations on the extension with revision of a currently approved information collection, Youth Conservation Corps Application and Medical History.

DATES: Comments must be received in writing on or before July 25, 2016 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Volunteers & Service Program Manager, USDA Forest Service, Recreation, Heritage, and Volunteer Resources, 201 14th Street NW., Mailstop 1125, Washington, DC 20024.

Comments also may be submitted via facsimile to 202–205–1145 or by email to: *mmazyck@fs.fed.us.*

The public may inspect comments received at USDA Forest Service, Washington Office, Sidney R. Yates Building during normal business hours. Visitors are encouraged to call ahead to 202–205–0650 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Merlene Mazyck, Recreation, Heritage and Volunteer Resources staff, at 202–205–0650.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title: Youth Conservation Corps Application and Medical History.

OMB Number: 0596–0084.

Expiration Date of Approval: 07/31/2016.

Type of Request: Extension with revision.

Abstract: Under the Youth Conservation Corps Act of August 13, 1970, as amended (U.S. 18701–1706), the Forest Service, U.S. Department of Agriculture; the Fish and Wildlife Service, and National Park Service, U.S. Department of Interior cooperate to provide seasonal employment for eligible youth 15 through 18 years old. The Youth Conservation Corps achieves three important objectives:

1. Accomplish needed conservation work on public lands;
2. Provide gainful employment for 15 to 18 year old male and females from all social, economic, ethnic and racial backgrounds; and
3. Foster, on the part of the 15 through 18 year old youth, an understanding and appreciation of the Nation's natural resources and heritage.

Youths seeking training and employment with the Youth Conservation Corps must complete the following form: FS–1800–18 Youth Conservation Corps Application. Youths who are selected for training and employment must also complete the FS–1800–3 Youth Conservation Corps Medical History. The applicant's parent or guardian must sign both forms. The application and medical history form are evaluated by participating agencies to determine the eligibility of each youth for employment with the Youth Conservation Corps.

FS–1800–18, Youth Conservation Corps (YCC) Application: Applicants are asked to answer questions that include their name, social security number, date of birth, age, mailing address, telephone numbers, email address, gender, educational background, desired work location, where they learned about the program, why they want to enroll in a YCC program, and whether they have worked with a group or team before and what they learned from that experience.

FS–1800–3, Youth Conservation Corps Medical History: Accepted applicants are asked to provide contact information, age and date of birth, gender, emergency contact information, parent or guardian's contact information and signature, medical insurance information, medical history including immunization history, and previous and current illnesses or conditions that may affect ability to perform certain tasks.

The purpose of this form is to certify the youth's physical fitness to work in the seasonal employment program.

Application

Estimate of Annual Burden: 23 minutes per form per respondent.

Type of Respondents: Youth 15 through 18 years old seeking seasonal employment with the above-named agencies, through the YCC program.

Estimated Annual Number of Respondents: 8,500.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 3,255 hours.

Medical History Form

Estimate of Annual Burden: 23 minutes per form per respondent.

Type of Respondents: Youth 15 through 18 years old whom have been selected for employment with the above-named agencies, through the YCC program.

Estimated Annual Number of Respondents: 2,909.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1,105 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: May 19, 2016.

Leslie A.C. Weldon,

Deputy Chief, National Forest Systems.

[FR Doc. 2016–12314 Filed 5–24–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Announcement of Requirements and Registration for U.S. Department of Agriculture (USDA) Innovations in Food and Agricultural Science and Technology (I–FAST) Prize Competition

Authority: 15 U.S.C. 3719.

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice.

SUMMARY: The National Institute of Food and Agriculture (NIFA) is announcing the I–FAST prize competition (the "I–FAST Competition" or the "Competition") to develop and implement the Innovations in Food and Agricultural Science and Technology (I–FAST) Pilot Program. USDA NIFA will partner with the National Science Foundation (NSF) Innovation Corps (I-Corps) to provide entrepreneurship training to USDA NIFA grantees under this I–FAST pilot program. The goals are to identify valuable product opportunities that can emerge from NIFA supported academic research. Selected USDA NIFA I–FAST project teams will have the opportunity to concurrently participate in the educational programs with NSF I-Corps awardees. Over a period of six months the USDA NIFA supported teams in the I–FAST program will learn what it will take to achieve an economic impact with their particular innovation. The final goal of the I–FAST Competition is to facilitate technology transfer of innovations that can make an impact in the marketplace and the global economy.

DATES: *Competition Submission Period—Pre-Application Phase:* May 26, 2016 to July 22, 2016.

Evaluation and Judging—Pre-Application Phase: July 25, 2016 to July 29, 2016.

Competition Submission Period—Full Application Phase: August 8, 2016 to September 2, 2016.

Evaluation and Judging—Full Application Phase: September 5, 2016 to September 9, 2016.

Verification of Winners: September 16, 2016.

Announcement of Winner(s): September 23, 2016.

NSF I-Corps Training for Winner(s): Various dates in October and November 2016. Winning team(s) will need to be available to travel to and attend the Washington DC NSF I-Corps training sessions in October and November 2016. The Pre-Application Phase Competition Submission Period begins May 26, 2016 at 10:00 a.m. ET and ends July 22, 2016 at 12:00 a.m. ET. USDA NIFA's receiving computer set to Eastern Time is the official time keeping device for the Competition.

The Full-Application Phase Competition Submission Period begins August 8, 2016 at 10:00 a.m. ET and ends September 2, 2016 at 12:00 a.m. ET. USDA NIFA's receiving computer set to Eastern Time is the official time keeping device for the Competition.

Competition dates are subject to change. Entries submitted before or after the Competition Submission Period will not be reviewed or considered for award. For more details please visit the *www.challenge.gov* Web site.

FOR FURTHER INFORMATION CONTACT: Changes or updates to the Competition rules will be posted and can be viewed at *www.nifa.usda.gov.* Questions about the Competition can be directed to Scott Dockum at *sdockum@nifa.usda.gov,* or phone 202–720–6346.

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition

The USDA National Institute of Food and Agriculture (NIFA) mission is to invest in and advance agricultural research, education, and extension to solve societal challenges. As part of this mission NIFA is charged with providing grant funding for research, education, and extension that address key problems of national, regional, and multi-state importance in sustaining all components of agriculture. A majority of NIFA grant funding is provided to academic institutions to focus on developing research in the areas of farm efficiency and profitability, ranching, renewable energy, forestry (both urban and agroforestry), aquaculture, rural communities and entrepreneurship, human nutrition, food safety, biotechnology, and conventional breeding.

USDA NIFA will partner with the NSF Innovation Corps (I-Corps) who will provide an Entrepreneurial Immersion course and training to USDA NIFA grantees through this I–FAST Competition. The goals of this Competition are to spur translation of fundamental research to the market place, to encourage collaboration between academia and industry, and to train NIFA-funded faculty, students and other researchers to understand innovation and entrepreneurship.

The purpose of the I–FAST Competition is to identify NIFA-funded research teams who will receive additional support, in the form of mentoring, training and funding, to accelerate the translation of knowledge derived from fundamental research into emerging products and services that can attract subsequent third-party funding. NIFA-funded research teams will be required to participate in Entrepreneurial Immersion course provided by the NSF I-Corps program. Each team will that receives an I–FAST award is required to participate in the following NSF I–CORP activities: (1) Attendance by the entire team at an on-site three-day NSF I–CORP Entrepreneurial Immersion course; (2) Participation in five Webinars following the completion of the course; (3) Complete approximately 15 hours of prep per week for at least five weeks; (4) Attend two days of demonstrations at the end of the training; (5) Teams are expected to engage in at least 100 contacts with potential customers during the seven week period that I-Corps training takes place and (6) Provide a 5 page summary report back to USDA NIFA on the outcome of the training and milestones to be established for commercialization. The major focus of I–FAST is for the selected teams (an I–FAST team includes the Principal Investigator, the Entrepreneurial Lead, and the Mentor) to participate in an Entrepreneurial Immersion course provided by the NSF I-Corps program. The NSF I-Corps is a program specifically designed to broaden the impact of select, basic-research projects by preparing scientists and engineers to focus beyond the laboratory. Leveraging experience and guidance from established entrepreneurs and a targeted curriculum within the NSF I-Corp program, USDA I–FAST teams will learn to identify valuable product opportunities that can emerge from USDA NIFA supported academic research. The I–FAST Competition will help create a stronger national ecosystem for innovation that couples scientific discovery with technology development to address agricultural and societal needs.

Eligibility Rules for Participating in the Competition

The I–FAST Competition is open to teams ("Teams" or "Participants") that are made up of individuals from academic/university institutions that have received a prior award from NIFA (in a scientific or engineering field relevant to the proposed innovation) that is currently active or that has been active within five years from the date of the I–FAST Team's proposal submission. The lineage of the prior award extends to the PI, Co-PIs, Senior Personnel, Post Docs, Professional Staff or others who were supported under the NIFA award. The prior award could range from a modest single-investigator award to a large, distributed center and also includes awards involving students.

To be eligible to win a prize under the Competition, Teams:

(1) Shall have registered to participate in the Competition under the rules;

(2) Shall have complied with all the requirements of the Competition rules;

(3) May not include a Federal entity or Federal employee acting within the scope of their employment; and

(4) In the case of a private entity Team member, the member shall be incorporated in and maintain a primary place of business in the United States. In the case of an individual Team member, shall be a citizen or permanent resident of the United States.

Makeup of I–FAST Competition Teams: Each Team shall consist of three members:

(1) Entrepreneurial Lead (EL).
(2) I–FAST Team Mentor.
(3) Principal Investigator (PI).

I–FAST teams are made up of individuals from an academic/university institution except for the Mentor who may reside with an outside organization as described below.

The Entrepreneurial Lead (EL) could be a postdoctoral scholar, graduate or other student with relevant knowledge of the technology located at the academic/university institution and a deep commitment to investigate the commercial landscape surrounding the innovation. The Entrepreneurial Lead should also be capable and have the will to support the transition of the technology, should the I–FAST Teams project demonstrate the potential for commercial viability. The EL will be responsible for: (1) Developing the team to include the mentor and PI, (2) leading the development of the pre-application and full application, (3) starting and completing the training activities in the Entrepreneurial Immersion course provided by the NSF I-Corps program, (4) communicating and coordinating with team members to achieve the goal of commercialization, (5) developing and monitoring team activity milestones from the Entrepreneurial Immersion course, (6) ensuring the team milestones are completed on time and (7) ensuring the team is in communication with the NIFA I–FAST Competition Director and the NSF I-Corps Program Director as needed.

The I–FAST Teams Mentor will typically be an experienced or emerging entrepreneur with proximity to the Academic/University Institution and have experience in transitioning technology out of Academic labs. The EL will need to identify a Mentor that has business expertise in the proposed technology sector and has entrepreneurial experience. A Mentor will be someone with the right "rolodex" of contacts in the technology area of commercialization which are critical for "getting the technology out of the lab". The EL of the team should contact their University Technology Transfer Office for ideas of potential Mentors. The I–FAST Teams Mentor will be responsible for guiding the team forward using existing entrepreneurial experience and tracking the team's commercialization progress through regular communication with the EL, PI and the NIFA I–FAST competition director and the NSF I-Corps Program Director as needed.

The Principal Investigator (PI) will have in-depth knowledge of the technology developed under the earlier USDA NIFA Grant and will be responsible for: (1) Coordinating with the university on the transfer of prize funds from NIFA if the team is selected, (2) tracking of the prize funding for team activities, (3) reporting to NIFA on disbursements and obligations of the prize funding, (4) guiding the EL and Mentor on technical aspects of the technology, (5) communicating as needed with the NIFA I–FAST Competition Director and the NSF I–Corps Program Director, (6) ensuring the EL meets the required milestones for the NSF I–CORP Course and (7) participating as a team member. The Principle Investigator that received the earlier NIFA grant for the technology is allowed to participate on the team, but cannot be the Entrepreneurial Lead.

Amount of the Prize

The USDA NIFA I–FAST Competition Prize Purse will be a maximum of $200,000, which will be divided to provide $50,000 each to a maximum of four (4) Teams. Prize Purse funds are required to be used by winning Teams to fully participate in the NSF I–Corps program curriculum. USDA NIFA reserves the right to award less than the maximum number of available prizes.

Payment of the Prize

Prizes awarded under this Competition will be paid by electronic funds transfer to the academic/university institution the Team(s) represent(s). Prize winners will be required to complete the required financial documents and forms to be supplied by NIFA to set up the electronic transfer. All Federal, state and local taxes are the sole responsibility of the winner(s).

Submission Process for Participants

The Competition will have a two-phase selection process. Teams initially will submit a pre-application. From the pre-applications, USDA NIFA will select Teams that will be invited to submit full applications. From the full applications, USDA NIFA will select the winning Team(s).

Participants will register for the Competition and will submit the pre-application to the Competition via *www.challenge.gov.* Teams can enter the contest by submitting the pre-application through the "Enter a Submission" function on *Challenge.gov,* and then send the pre-application, with your name and contact info, to *contest@nifa.usda.gov.* The pre-application shall contain the following information:

Prepare a two-page Executive Summary that describes the following:

(1) Composition of the Team and roles (EL, PI, Mentor) of the members proposing to undertake the commercialization feasibility research.

(2) Relevant current/previous NIFA awards.

(3) Brief description of the potential commercial impact.

(4) Brief description of the current commercialization plan.

Teams that are selected to submit a full application will provide the full application via *challenge.gov* through the "Enter a Submission" function, and then send the application with your name and contact info, to *contest@nifa.usda.gov.* The full application shall include the following project description information:

1. I–Corps Team (one page limit)

a. Briefly describe the I–Corps team and provide rationale for its formation, focusing on members' entrepreneurial expertise and relevance to the innovation effort, and members' experience in collaborating on previous projects.

2. Lineage of the Proposed Innovation (one page limit)

a. Provide a table of previous awards with managing program officer (if applicable) identified.

b. Briefly describe how this research has led the Team to believe that a commercial opportunity exists for the effort moving forward.

3. Description of the Potential Commercial Impact (two page limit)

a. Provide a brief profile of a typical customer of the proposed innovation.

b. Describe the customer need that you believe will be met by the proposed innovation.

c. Describe how the customer currently meets those needs.

d. Your approach—What is the proposed innovation? How does it relate to the fundamental research already conducted under previous award(s)?

e. How much do you think a customer would pay for your solution?

4. Brief description of the project plan (one page limit)

a. Current Status—In what stage is the development: proof-of-principle, proof-of-concept, prototype (alpha, beta), etc. . . .

b. Provide a brief description of the proof-of-concept or technology demonstration that will be provided at the end of the project.

The total page limit for the project description full application is five (5) pages.

From the Teams submitting full applications, a maximum of four Teams will be selected as winners to enter into the I–FAST Program.

Judging

The information on the Competition will be provided via *www.challenges.gov.*

USDA NIFA will screen all entries for eligibility and completeness. Entries from Teams that do not meet the eligibility requirements and/or that fail to include required submission elements will not be evaluated or considered for award. Eligible and complete entries will be judged by a fair and impartial panel of individuals from USDA NIFA and NSF (the "Judging Panel").

Pre-Application Evaluation: The Judging Panel will evaluate the pre-application to determine the following:

(1) Did the technology proposed receive past NIFA funding?

(2) Does the team have the required team members and are the roles of each team member clearly described?

(3) Does the commercialization plan provide a good understanding of the team's knowledge of the current state of the art and how the technology could enter into a potential market?

(4) Were the page limits met?

Full-Application Evaluation: The Judging Panel will evaluate the Full-application to determine the following and approximately equal consideration will be given to each criterion except for item (3), which will receive twice the value of any of the other items:

1. *I–Corps Team:* Does the application clearly describe: The I–Corps team, the rationale for the team's formation, members' entrepreneurial expertise and relevance to the innovation effort, and members' experience in collaborating on previous projects?

2. *Lineage of the Proposed Innovation:* Does the application provide a table of previous awards with a managing program officer (if applicable) identified? Does the application clearly describe how this research has led the Team to believe that a commercial opportunity exists for the effort moving forward?

3. *Description of the Potential Commercial Impact:* Does the application clearly describe the profile of a typical customer of the proposed innovation? Does the application describe the customer needs to be met by the proposed innovation? Does the application describe how the customer currently meets those needs? Does the application clearly describe the proposed innovation and how it relates to the fundamental research already conducted under previous award(s)? Does the application describe how much a customer would pay for the solution?

4. *Project plan:* Does the project plan clearly describe the current status including the stage of development? Does the application provide a description of the proof-of-concept or technology demonstration that will be provided at the end of the project?

5. *Page Limits:* Did the application meet the required page limits?

Additional Rules and Conditions

A. General Conditions

By entering the Competition, each Team guarantees that its entry complies with all applicable Federal and state laws and regulations.

Each Team warrants that its entry is free of viruses, spyware, malware, and any other malicious, harmful, or destructive device. Teams submitting entries containing any such device will be held liable and may be prosecuted to the fullest extent of the law.

Entries containing any matter which, in the sole discretion of USDA NIFA, is indecent, defamatory, in obvious bad taste, which demonstrates a lack of respect for public morals or conduct, which promotes discrimination in any form, which shows unlawful acts being performed, which is slanderous or libelous, or which adversely affects the reputations of USDA NIFA or NSF will not be accepted. If USDA NIFA, in its sole discretion, finds any entry to be unacceptable then such entry shall be deemed disqualified and will not be evaluated or considered for award.

The winning Team(s) must comply with all applicable laws and regulations regarding Prize Purse receipt and disbursement.

USDA NIFA's failure to enforce any term of any applicable rule or condition shall not constitute a waiver of that term.

B. Entry Conditions, Release & Liability

By entering the Competition, each Team agrees to:

(1) Comply with and be bound by all applicable rules and conditions, and the decisions of USDA NIFA, which are binding and final in all matters relating to this Competition.

(2) Release and hold harmless USDA NIFA and NSF and all their respective past and present officers, directors, employees, agents, and representatives (collectively the "Released Parties") from and against any and all claims, expenses, and liability arising out of or relating to the Team's entry or participating in the Competition and/or the Team's acceptance, use, or misuse of the Prize Purse or recognition. Provided, however, that Participants are not required to waive claims arising out of

the unauthorized use or disclosure by USDA NIFA or NSF of the intellectual property, trade secrets, or confidential business information of the Participant.

The Released Parties are not responsible for: (1) Any incorrect or inaccurate information, whether caused by Teams, printing errors, or by any of the equipment or programming associated with or used in the Competition; (2) technical failures of any kind, including, but not limited to, malfunctions, interruptions, or disconnections in phone lines or network hardware or software; (3) unauthorized human intervention in any part of the entry process for the Competition; (4) technical or human error that may occur in the administration of the Competition or the processing of entries; or (5) any injury or damage to persons or property that may be caused, directly or indirectly, in whole or in part, from Team's participation in the Competition or receipt or use or misuse of the Prize Purse. If for any reason a Team's entry is confirmed to have been deleted erroneously, lost, or otherwise destroyed or corrupted, Team's sole remedy is to submit another entry in the Competition.

C. Termination and Disqualification

USDA NIFA reserves the authority to cancel, suspend, and/or modify the Competition, or any part of it, if any fraud, technical failures, or any other factor beyond USDA NIFA's reasonable control impairs the integrity or proper functioning of the Competition, as determined by USDA NIFA in its sole discretion.

USDA NIFA reserves the right to disqualify any Team it believes to be tampering with the entry process or the operation of the Competition or to be acting in violation of any applicable rule or condition.

Any attempt by any person to undermine the legitimate operation of the Competition may be a violation of criminal and civil law, and, should such an attempt be made, USDA NIFA reserves the authority to seek damages from any such person to the fullest extent permitted by law.

D. Verification of Potential Winner(s)

All potential Competition winners are subject to verification by USDA NIFA whose decisions are final and binding in all matters related to the Competition.

Potential winner(s) must continue to comply with all terms and conditions of the Competition rules, and winning is contingent upon fulfilling all requirements. The potential winner(s) will be notified by email and/or telephone. If a potential winner cannot be contacted, or if the notification is returned as undeliverable, the potential winner forfeits. In the event that a potential winner, or an announced winner, is found to be ineligible or is disqualified for any reason, USDA NIFA may make award, instead, to the next runner up, as previously determined by the Judging Panel.

Prior to awarding the Prize Purse, USDA NIFA will verify that the potential winner(s) is/are not suspended, debarred, or otherwise excluded from doing business with the U.S. Federal Government. Suspended, debarred, or otherwise excluded parties will not be eligible to win the Competition.

E. Intellectual Property

By entering the Competition, each Team warrants that it is the author and/or authorized owner of its entry, and that the entry is wholly original with the Team (or is an improved version of an existing project plan the Team is legally authorized to enter into the Competition), and that the submitted entry does not infringe on any copyright, patent, or any other rights of any third party. Each Team agrees to hold the Released Parties harmless for any infringement of copyright, trademark, patent, and/or other real or intellectual property right that may be caused, directly or indirectly, in whole or in part, from Team's participation in the Competition.

All legal rights in any materials produced or submitted in entering the Competition are retained by the Team and/or the legal holder of those rights. Entry into the Competition constitutes express authorization for USDA NIFA, NSF, and the Judging Panel to review and analyze any and all aspects of submitted entries, including any trade secret or proprietary information contained in or evident from review of the submitted entries.

F. Privacy & Disclosure Under FOIA

Personal and contact information is not collected for commercial or marketing purposes. Information submitted throughout the Competition will be used only to communicate with Teams regarding entries and/or the Competition.

Teams' entries to the Competition may be subject to disclosure under the Freedom of Information Act ("FOIA"). If a Team believes that all or part of its Competition entry is protected from release under FOIA (*e.g.,* if the information falls under FOIA exemption #4 for "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential") the Team will be responsible for clearly marking the page(s)/section(s) of information it believes are protected.

Done at Washington, DC, this 18th day of May, 2016.

Kim L. Hicks,

Branch Chief, Grants and Agreements Management Branch, USDA, ARS, FMAD.

[FR Doc. 2016–12265 Filed 5–24–16; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which approval from the Office of Management and Budget (OMB) will be requested.

DATES: Comments on this notice must be received by July 25, 2016.

FOR FURTHER INFORMATION CONTACT: Thomas P. Dickson, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave. SW., STOP 1522, Room 5159, South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. Email: *thomas.dickson@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that the Agency is submitting to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Thomas P. Dickson, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, South Building, 1400 Independence Ave. SW., Washington, DC 20250–1522.

Title: Broadband Grant Program.

OMB Control Number: 0572–0127.

Type of Request: Extension of a currently approved information collection.

Abstract: The provision of broadband transmission service is vital to the economic development, education, health, and safety of rural Americans. To further this objective, RUS provides financial assistance in the form of grant to eligible entities that propose, on a "community-oriented connectivity" basis, to provide broadband transmission service that fosters economic growth and delivers enhanced educational, health care, and public safety services to extremely rural, lower income communities. The Agency gives priority to rural areas that it believes have the greatest need for broadband transmission services. Grant authority is utilized to deploy broadband infrastructure to extremely rural, lower income communities on a "community-oriented connectivity" basis. The "community-oriented connectivity" concept integrates the deployment of broadband infrastructure with the practical, everyday uses and applications of the facilities. This broadband access is intended to promote economic development and provide enhanced educational and health care opportunities. The Agency provides financial assistance to eligible entities that are proposing to deploy broadband transmission service in rural communities where such service does not currently exist and who will connect the critical community facilities including the local schools, libraries, hospitals, police, fire and rescue services and who will operate a community center that provides free and open access to residents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 130.11 hours per response.

Respondents: Public bodies, commercial companies, cooperatives, nonprofits, Indian tribes, and limited dividend or mutual associations and must be incorporated or a limited liability company.

Estimated Number of Respondents: 90.

Estimated Number of Responses per Respondent: 111.

Estimated Total Annual Burden on Respondents: 14,442.

Copies of this information collection can be obtained from Thomas P. Dickson, Program Development and Regulatory Analysis, Rural Utilities Service at (202) 690–4492.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: May 18, 2016

Brandon McBride,

Administrator, Rural Utilities Service.

[FR Doc. 2016–12266 Filed 5–24–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet June 14, 2016, 9:00 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Public Session

1. Opening remarks by the Chairman
2. Opening remarks by the Bureau of Industry and Security
3. Presentation of papers or comments by the Public
4. Export Enforcement update
5. Regulations update
6. Working group reports
7. Automated Export System update

Closed Session

8. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3)

The open session will be accessible via teleconference to 25 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than June 7, 2016.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on March 9, 2016, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 § § 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: May 19, 2016.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2016–12300 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Emerging Technology and Research Advisory Committee; Notice of Partially Closed Meeting

The Emerging Technology and Research Advisory Committee (ETRAC) will meet on June 9, 2016, 8:30 a.m., Room 3884, at the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on emerging technology and research activities, including those related to deemed exports.

Agenda

Open Session

1. Welcome and Opening Remarks
2. *Issues for Discussion:* Atom-based sensing; International Summit on Human Gene Editing; Nanotechnology; Advanced Materials-Graphene Center-China; EAR–4E001.e; Sanctions and the

Scientific Community-Russia and Emerging Technology issues at resent events.

3. Presentation from the Director of Innovation, Office of the Secretary.

4. Presentation—ETRAC member on Category 1C toxins.

5. *Continuation:* State of Emerging Technologies ETRAC Members. *Report:* Emerging Technologies from the U.S. Department of Defense *Report:* May 2016 Association of University Export Control Officials Annual.

6. Update on Export Control Reform.

7. Comments from the Public.

Closed Session

8. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open sessions will be accessible via teleconference to 25 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than, June 2, 2016.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on March 2, 2016, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the portion of the meeting dealing with matters the of which would be likely to frustrate significantly implementation of a proposed agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)1 and 10(a) (3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: May 19, 2016.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2016–12301 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 03–4A008]

Export Trade Certificate of Review

ACTION: Notice of Application for an Amended Export Trade Certificate of Review by California Pistachio Export Council ("CPEC"), Application No. 03–4A008.

SUMMARY: The Secretary of Commerce, through the International Trade Administration, Office of Trade and Economic Analysis (OTEA), has received an application for an amended Export Trade Certificate of Review ("Certificate") from CPEC. This notice summarizes the proposed amendment and seeks public comments on whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Joseph E. Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2016). OTEA is issuing this notice pursuant to 15 CFR 325.6(a), which requires the Secretary of Commerce to publish a notice in the **Federal Register** identifying the applicant and summarizing the conduct for which certification is sought. Under 15 CFR 325.6(a), interested parties may, within twenty days after the date of this notice, submit written comments to the Secretary on the application.

Request for Public Comments: Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential.

An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 21028, Washington, DC 20230.

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the amended Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 03–4A008."

Description of Amendments to the Certificate

1. Add the following companies as Members of the Certificate: ARO Pistachios, Inc., and Zymex Industries, Inc.

2. Add the following activity to the Certificate: permit the Members to disclose weekly pistachios harvests that the Members receive during the harvest season.

CPEC's Export Trade Certificate of Review complete membership after this amendment is listed below:

(a) ARO Pistachios, Inc.
(b) Keenan Farms, Inc.
(c) Monarch Nut Company.
(d) Nichols Pistachio.
(e) Primex Farms, LLC.
(f) Setton Pistachio of Terra Bella, Inc.
(g) Horizon Marketing Agency in Common Cooperative Inc.
(h) Zymex Industries, Inc.

Dated: May 18, 2016.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, (202) 482–5131, etca@trade.gov.

[FR Doc. 2016–12332 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Preliminary Intent To Rescind the New Shipper Review of Jinxiang Huameng Imp & Exp Co., Ltd.

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting a new shipper review of Jinxiang Huameng Imp & Exp Co., Ltd. (Huameng) regarding the antidumping duty order on fresh garlic from the People's Republic of China (the PRC). The period of review (POR) is November 1, 2014 through April 30, 2015. The Department has preliminarily determined that

Huameng's new shipper sale is not *bona fide.* Interested parties are invited to comment on these preliminary results.

DATES: Effective May 25, 2016.

FOR FURTHER INFORMATION CONTACT: Sean Carey, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3964.

SUPPLEMENTARY INFORMATION:

Background

On July 21, 2015, the Department published notice of initiation of a new shipper review of fresh garlic from the People's Republic of China for the period November 1, 2014 through April 30, 2015.[1] On January 7, 2016, the Department extended the deadline for the preliminary results to May 10, 2016.[2] The Department tolled the deadline for these preliminary results by an additional four business days as a result of the Government closure due to Snowstorm "Jonas," which extended the deadline to May 16, 2016.[3]

Scope of the Order

The merchandise covered by this order is all grades of garlic, whether whole or separated into constituent cloves.[4] The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") subheadings: 0703.20.0000, 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, and 2005.99.9700. A full description of the scope of the order is contained in the Preliminary Decision Memorandum. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description is dispositive.

Methodology

The Department is conducting this review in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Department's Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Rescission of Huameng NSR

For the reasons detailed in the Preliminary Decision Memorandum, the Department preliminarily finds that Huameng's sale under review is not *bona fide,* and therefore, does not provide a reasonable or reliable basis for calculating a dumping margin. The Department reached this conclusion based on the totality of the circumstances, including: (a) The atypical nature of product that was the subject of the sale, *i.e.* single-clove garlic; (b) the lack of proof of payment by Huameng's U.S. customer for payment of all its obligatory expenses per the sales contract and for its subsequent purchase of non-subject merchandise; and, (3) other circumstances indicating that Huameng's business operations were not profitable. As result, the Department is preliminarily rescinding the new shipper review of Huameng.

Disclosure and Public Comment

The Department will disclose the analysis performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit written comments by no later than 30 days after the date of publication of these preliminary results of review.[5] Rebuttals, limited to issues raised in the written comments, may be filed by no later than five days after the written comments are filed.[6]

Any interested party may request a hearing within 30 days of publication of this notice.[7] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.[8]

The Department intends to issue the final results of this new shipper review, which will include the results of its analysis of issues raised in any such comments, within 90 days of publication of these preliminary results, pursuant to section 751(a)(2)(B)(iv) of the Act.

Assessment Rates

Upon completion of the final results, pursuant to 19 CFR 351.212(b), the Department will determine, and the U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If we proceed to a final rescission of the new shipper review, Huameng's entries will be assessed at the rate entered.[9] If we do not proceed to a final rescission of the new shipper review, pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific assessment rates. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis.*[10]

Although the Department intends to rescind the new shipper review for Huameng, the Department is currently conducting an administrative review for the POR November 1, 2014, through October 31, 2015, which could include the entries subject to this new shipper review. Accordingly, we will instruct CBP to continue to suspend entries during the period November 1, 2014, through October 31, 2015, of subject merchandise exported by Huameng until CBP receives instructions relating to the administrative review covering the period November 1, 2014, through October 31, 2015.

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[1] *See Fresh Garlic From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review; 2014–2015,* 80 FR 43062 (July 21, 2015).

[2] *See* the Department Memorandum "Fresh Garlic From the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Review," dated January 7, 2016.

[3] *See* the Department Memorandum "Tolling of Administrative Deadlines as a Result of the Government Closure During Snowstorm 'Jonas'," dated January 27, 2016.

[4] *See* the Department Memorandum, "Decision Memorandum for the Preliminary Results of the Antidumping Duty New Shipper Review of Fresh Garlic From the People's Republic of China: Jinxiang Huameng Imp & Exp Co., Ltd." dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum), for a complete description of the Scope of the Order.

[5] *See* 19 CFR 351.309(c).

[6] *See* 19 CFR 351.309(d).

[7] *See* 19 CFR 351.310(c).

[8] *See* 19 CFR 351.310(d).

[9] *See* 19 CFR 351.212(c).

[10] *See* 19 CFR 351.106(c)(2).

Cash Deposit Requirements

Effective upon publication of the final rescission or the final results of this NSR, we will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise by Huameng. If the Department proceeds to a final rescission of the new shipper review, the cash deposit rate will continue to be the PRC-wide rate. If we issue final results of the new shipper review for Huameng, we will instruct CBP to collect cash deposits, effective upon the publication of the final results, at the rates established therein.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The Department is issuing and publishing these results in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act and 19 CFR 351.214 and 351.221(b)(4).

Dated: May 17, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Methodology
V. Recommendation

[FR Doc. 2016–12336 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Board of Overseers of the Malcolm Baldrige National Quality Award and Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Board of Overseers of the Malcolm Baldrige National Quality Award (Board of Overseers) and the Judges Panel of the Malcolm Baldrige National Quality Award (Judges Panel) will meet together in open session on Thursday, June 9, 2016, from 8:30 a.m. to 3:00 p.m. Eastern time. The Board of Overseers, appointed by the Secretary of Commerce, reports the results of the Malcolm Baldrige National Quality Award (Award) activities to the Director of the National Institute of Standards and Technology (NIST) each year, along with its recommendations for the improvement of the Award process. The Judges Panel, also appointed by the Secretary of Commerce, ensures the integrity of the Award selection process and recommends Award recipients to the Secretary of Commerce. The purpose of this meeting is to discuss and review information received from the National Institute of Standards and Technology and from the Chair of the Judges Panel. The agenda will include: Baldrige Program Update, Baldrige Foundation Fundraising Update, Baldrige Judges Panel Update, Ethics Review, Applicants and Eligibility, and New Business/Public Comment.

DATES: The meeting will be held on Thursday, June 9, 2016 from 8:30 a.m. Eastern time until 3:00 p.m. Eastern time. The meeting will be open to the public.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Building 101, Lecture Room A, 100 Bureau Drive, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Robert Fangmeyer, Director, Baldrige Performance Excellence Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland 20899–1020, telephone number (301) 975–2360, or by email at *robert.fangmeyer@nist.gov.*

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 3711a(d)(1), 15 U.S.C. 3711a(d)(2)(B) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the Board of Overseers and the Judges Panel will meet together in open session on Thursday, June 9, 2016 from 8:30 a.m. to 3:00 p.m. Eastern time. The Board of Overseers (Board) is currently composed of eight members preeminent in the field of organizational performance excellence and appointed by the Secretary of Commerce. Additional Board members may be added in advance of this meeting, where the Board will make an annual report on the results of Award activities to the Director of the National Institute of Standards and Technology (NIST) and provide its recommendations for improvement of the Award process. The Judges Panel consists of twelve members with balanced representation from U.S. service, manufacturing, nonprofit, education, and health care industries. The Panel includes members who are familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, health care providers, and educational institutions. The Judges Panel recommends Malcolm Baldrige National Quality Award recipients to the Secretary of Commerce.

The purpose of this meeting is to discuss and review information received from NIST and from the Chair of the Judges Panel of the Malcolm Baldrige National Quality Award. The agenda will include: Baldrige Program Update, Baldrige Foundation Fundraising Update, Baldrige Judges Panel Update, Ethics Review, Applicants and Eligibility, and New Business/Public Comment. The agenda may change to accommodate the Judges Panel and Board of Overseers business. The final agenda will be posted on the NIST Baldrige Performance Excellence Web site at *http://www.nist.gov/baldrige/community/overseers.cfm.* The meeting is open to the public.

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Board's affairs and/or the Panel of Judges' general process are invited to request a place on the agenda. On June 9, 2016, approximately one-half hour will be reserved in the afternoon for public comments, and speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about 3 minutes each. The exact time for public comments will be included in the final agenda that will be posted on the Baldrige Performance Excellence Program Web site at *http://www.nist.gov/baldrige/community/overseers.cfm.* Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak, but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the Baldrige Performance Excellence Program, Attention Nancy Young, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland, 20899–1020, via fax at 301–975–4967 or electronically by email to *nancy.young@nist.gov.*

All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Please submit your name, time of arrival, email address and phone number to Nancy Young no later than 4:00 p.m. Eastern time, Thursday, June 2, 2016, and she will provide you with instructions for admittance. Non-U.S. citizens must submit additional information; please contact Nancy Young by email at *nancy.young@nist.gov* or by phone at (301) 975–2361. Also, please note that under the REAL ID Act of 2005 (Pub. L. 109–13), federal agencies, including NIST, can only accept a state-issued driver's license or identification card for access to federal facilities if issued by states that are REAL ID compliant or have an extension. NIST also currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license. For detailed information please contact Ms. Young or visit: *http://www.nist.gov/public_affairs/visitor/.*

Kevin Kimball,

NIST Chief of Staff.

[FR Doc. 2016–12292 Filed 5–24–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE622

Endangered Species; File No. 20283

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Demian Chapman, Ph.D., School of Marine and Atmospheric Science, Stony Brook University, Stony Brook, NY 11794, has applied in due form for a permit to import scalloped hammerhead shark (*Sphyrna lewini*) samples for purposes of scientific research.

DATES: Written, telefaxed, or email comments must be received on or before June 24, 2016.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 20283 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. 20283 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant proposes to conduct genetics research on scalloped hammerhead shark (*Sphyrna lewini*) samples obtained from the Hong Kong fish market in order to assess global trade of shark fins. Samples from up to 200 individuals would be imported to the Florida International University for analysis. The permit is requested for a 2 year period.

Dated: May 19, 2016.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–12286 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; StormReady, TsunamiReady, StormReady/TsunamiReady, and StormReady Supporter Application Forms

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before July 25, 2016.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Rocky Lopes, (301) 427–9380 or *Rocky.Lopes@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for revision of a currently approved information collection.

NOAA's National Weather Service would like to add a TsunamiReady Supporter Application Form to its currently approved collection, which includes StormReady, TsunamiReady, StormReady/TsunamiReady, and StormReady Supporter application forms. The title would then change to "StormReady, TsunamiReady, StormReady/TsunamiReady, StormReady Supporter and TsunamiReady Supporter Application Forms". This new application would be used by entities such as businesses and not-for-profit institutions that may not have the resources necessary to fulfill all the eligibility requirements to achieve the full TsunamiReady recognition. The form will be used to apply for initial TsunamiReady Supporter recognition and renewal of that recognition every five years. The federal government will use the information collected to determine whether an entity has met all of the criteria to receive TsunamiReady Supporter recognition.

II. Method of Collection

Applications may be faxed, mailed or emailed.

III. Data

OMB Control Number: 0648–0419.

Form Number(s): None.

Type of Review: Regular submission (revision of a currently approved information collection).

Affected Public: Business or other for-profit organizations; not-for-profit institutions.

Estimated Number of Respondents: 305.

Estimated Time per Response: Initial applications, 2 hours; renewal applications, 1 hour.

Estimated Total Annual Burden Hours: 565.

Estimated Total Annual Cost to Public: $150 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 19, 2016.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2016–12247 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–KE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE633

Northeast Ocean Plan

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce; National Park Service, U.S. Fish and Wildlife Service, Bureau of Ocean Energy Management, Department of the Interior; U.S. Army Corps of Engineers, the Joint Staff, Department of Defense; Environmental Protection Agency; Department of Energy; U.S. Coast Guard, Department of Homeland Security; Department of Transportation; and Department of Agriculture.

ACTION: Notice with request for comments.

SUMMARY: The Northeast Regional Planning Body (NE RPB), which is composed of eight Federal agencies and departments, six States, six federally recognized Indian Tribes, and the New England Fishery Management Council, is requesting public comment on its draft Northeast Ocean Plan. The Northeast Ocean Plan, developed pursuant to the National Ocean Policy, was prepared collaboratively by the Regional Planning Body to build upon and improve existing Federal, State, and Tribal decision-making and planning processes in the Northeast Region. The National Oceanic and Atmospheric Administration (NOAA), as lead Federal agency for the Northeast Regional Planning Body, is publishing this notice on behalf of the NE RPB.

DATES: Submit comments on or before July 25, 2016.

ADDRESSES: Submit your comments, identified by one of the following methods:

- *On-line at http://neoceanplanning.org/plan.*
- *Email: comment@neoceanplanning.org.*
- *Mail:* Betsy Nicholson, Federal Co-Lead, Northeast Regional Planning Body, 55 Great Republic Drive, Gloucester, MA 01930.
- NOAA, on behalf of the NE RPB, intends to make available to the public all comments, including names and addresses when provided. The Draft Northeast Ocean Plan may be obtained online at *http://neoceanplanning.org/plan.*

FOR FURTHER INFORMATION CONTACT: Betsy Nicholson, Federal Co-Lead, Northeast Regional Planning Body, 55 Great Republic Drive, Gloucester, MA 01930.

SUPPLEMENTARY INFORMATION:

I. Background

National Ocean Policy

Executive Order 13547, signed July 19, 2010, Stewardship of the Ocean, Our Coasts, and the Great Lakes (National Ocean Policy), established a national policy to protect, maintain, and restore the health and biodiversity of the ocean, coastal, and Great Lakes ecosystems and resources; enhance the sustainability of the ocean and coastal economies; preserve our maritime heritage; support sustainable uses and access; provide for adaptive management to enhance our understanding of and capacity to respond to climate change and ocean acidification; increase our scientific understanding and awareness of changing environmental conditions, trends, and their causes; and perform duties in accordance with applicable international law, including respect for and preservation of navigational rights and freedoms, which are essential for the global economy, international peace, national security, and foreign policy interests. The National Ocean Policy encourages a comprehensive, adaptive, integrated, ecosystem-based, and transparent ocean planning process based on sound science for analyzing current and anticipated uses of ocean and coastal areas. The National Ocean Policy also provides for the voluntary development of regional marine plans by intergovernmental regional planning bodies that build upon and improve existing Federal, State, and Tribal decision-making and planning processes. These regional plans, developed by, for, and in the regions, will enable a more integrated, comprehensive, ecosystem-based, flexible, and proactive approach to planning and managing sustainable multiple uses across sectors and improve the conservation of the ocean, our coasts, and the Great Lakes.

Northeast Regional Planning Body

The NE RPB includes six States (Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine, and Vermont); six federally recognized Indian Tribes (Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Mashpee Wampanoag Tribal Council, Mohegan Indian Tribe of Connecticut, Narragansett Indian Tribe of Rhode Island, and Wampanoag Tribe of Gay Head (Aquinnah)); eight Federal agencies and departments (U.S. Department of Agriculture, U.S. Department of Commerce, U.S. Department of Defense, U.S. Department of Energy, U.S. Department of

Homeland Security, U.S. Department of the Interior, U.S. Department of Transportation, and the U.S. Environmental Protection Agency) and their component agencies (the National Oceanic Atmospheric and Administration, the Maritime Administration, the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Ocean Energy Management, the U.S. Coast Guard, the Joint Staff, and the U.S. Army Corps of Engineers); and the New England Fishery Management Council. The NE RPB is not a regulatory body and has no independent legal authority to regulate or direct Federal, State, or Tribal entities, nor does the draft Northeast Ocean Plan (NE Ocean Plan or the Plan), described below, augment or subtract from any entity's existing statutory or other authorities.

Development of the Draft Northeast Ocean Plan

The NE RPB met for the first time in November 2012.

The NE RPB directed the formal processes and developed the draft NE Ocean Plan over the course of 3–1/2 years. The NE RPB process leading to the draft NE Ocean Plan included a total of seven multi-day public meetings between November 2012 and November 2015. Between NE RPB meetings, there was ongoing outreach to obtain public feedback, identify and discuss issues, review data and procure scientific input. For example, members of the NE RPB met with expert work groups, stakeholder groups, environmental groups, and marine industries, including commercial fishing and shipping groups.

The draft NE Ocean Plan is based on science and informed by stakeholder data and input. Throughout the planning process, stakeholders were involved in developing data products for human activities (shipping, fishing, recreation, energy, and aquaculture, for example) and marine life and habitat (through review of the methods, analyses, and draft products for spatial data characterizing species and their habitat) and were encouraged to review spatial data on the Northeast Ocean Data Portal (the Portal). In collaboration with the Northeast Ocean Data Portal Working Group, the NE RPB developed the Portal as an on-line source that incorporates maps and data characterizing ocean resources and mapping human activities. Since June 2013, the Portal has averaged more than 5,000 visits from 2,400 unique visitors per month. The Portal is available online at *www.northeastoceandata.org.*

II. The Draft Northeast Ocean Plan

The draft NE Ocean Plan, developed using the best available science and knowledge, provides an integrated, comprehensive, ecosystem-based, flexible, and proactive approach to planning and managing uses of the northeast marine environment. The Plan is a forward-looking document intended to strengthen interagency coordination, planning, and policy implementation, and to enhance public participation. The Plan has three main goals: (1) Healthy ocean and coastal ecosystems; (2) effective decision-making; and (3) compatibility among past, current, and future ocean uses. The Plan promotes the use of data from the Portal to inform agency actions, enhance stakeholder input and involvement, locate potential areas of conflict, and identify additional information and science needs. The Plan also describes best practices for inter-agency coordination as well as coordination among Federal agencies, Tribes, States, and stakeholders. The Plan enhances the tools and information available for Federal agency actions and planning, clarifying alternatives and opportunities within the context of Tribal and State agency actions, and by increasing coordination across these governments.

The draft NE Ocean Plan does not augment or subtract from any entity's existing statutory or other authorities. The Plan provides a strategy to monitor and analyze trends in ecosystem health, and undertake efforts to communicate progress towards achieving the three main goals. The Plan is a foundation, not a finished structure, and it will continue to evolve as new trends, information, and needs emerge.

III. Implementation of the NE Ocean Plan

Executive Order 13547, which adopts the *Final Recommendations of the Interagency Ocean Policy Task Force (Final Recommendations),* establishes a process for the National Ocean Council (NOC or Council) to review and certify each regional marine plan to ensure it is consistent with the National Ocean Policy and includes the essential elements described in the *Final Recommendations.*

Consistent with Executive Order 13547, each NOC member will, as described in the *Final Recommendations,* and to the fullest extent consistent with applicable law, comply with those regional plans certified by the NOC. The NOC has issued guidance to the NOC member agencies in the form of the Marine Planning Handbook (Handbook). The Handbook calls for the NOC member agencies to concur that regional marine plans submitted by the regional planning bodies are consistent with the substantive and procedural standards set forth in the *Final Recommendations.* The NOC concurrence operates as the certification described in Executive Order 13547. By concurring that the NE Ocean Plan was developed in accordance with the substantive and procedural standards in the *Final Recommendations,* the NOC certifies that Federal members of the NE RPB will use the NE Ocean Plan to guide and inform their actions consistent with their existing statutory and regulatory authorities.

The Federal members of the NE RPB administer a wide range of statutes and programs affecting the marine environment in the Northeast. These Federal departments and agencies carry out actions under Federal laws involving a wide range of regulatory responsibilities and non-regulatory missions and management activities throughout the Nation's waterways and the ocean. These activities include managing and developing marine transportation systems, national security and homeland defense activities, regulating ocean discharges, siting energy facilities, permitting sand removal and beach re-nourishment, managing national parks, national wildlife refuges, and national marine sanctuaries, regulating commercial and recreational fishing, and managing activities affecting threatened and endangered species and migratory birds.

The specific manner and mechanism a Federal agency uses to implement the final NE Ocean Plan will depend upon that agency's mission, authorities, and activities in the marine environment. The Federal members of the NE RPB will publicly describe the administrative mechanisms they will use to implement the NE Ocean Plan when the NE RPB submits the Plan to the NOC for review and concurrence.

If the NOC concurs (*i.e.,* certifies) that the NE Ocean Plan is consistent with Executive Order 13547, the *Final Recommendations,* and the NOC Handbook, each Federal NE RPB member will incorporate the final NE Ocean Plan into their planning processes and internal agency documents, and use the NE Ocean Plan to guide and inform their decisions and actions, consistent with applicable law. Federal NE RPB members with regulatory responsibilities will incorporate the final NE Ocean Plan into their pre-planning, planning, and permitting to guide and inform Federal agency internal and external permitting decisions, environmental compliance, resource management plans, and other actions taken pursuant to existing statutory and regulatory authorities. These agencies will ensure their scientists, managers, decision-makers, and analysts align their actions with the NE Ocean Plan to the fullest extent possible under existing statutory and regulatory authorities. The NE Ocean Plan does not create new authorities, regulations, or Federal agency missions. All Federal activities will continue to be managed under existing statutory and regulatory authorities.

The RPB member State and Tribal governments and New England Fishery Management Council are in the process of describing how they can use the NE Ocean Plan to guide and inform their activities and decisions.

IV. Conclusion

Through Executive Order 13547, Stewardship of the Ocean, Our Coasts, and the Great Lakes, President Obama established a National Ocean Policy to ensure the protection, maintenance, and restoration of the health of ocean, coastal, and Great Lakes ecosystems and resources; enhance the sustainability of ocean and coastal economies; preserve our maritime heritage; support sustainable uses and access; provide for adaptive management to enhance our understanding of and capacity to respond to climate change and ocean acidification; and coordinate with our national security and foreign policy interests.

The NE RPB anticipates the NE Ocean Plan will increase the sharing of information and data across resource managers, stakeholders and the public; enhance decision-making through collaboration and coordination within NOAA and among Federal, State and Tribal governments; and provide for an improved information and data system that characterizes human activities and natural resources in Northeast waters from the coast to 200 nautical miles offshore. This informational overlay, along with the best practices for improved coordination, will improve the context for decisions affecting the resources and coastal and ocean waters of the Northeast region.

Authority: Executive Order 13547, "Stewardship of the Ocean, Our Coasts and the Great Lakes" (July 19, 2010).

Cathryn D. Sullivan,

Administrator, National Oceanic and Atmospheric Administration.

[FR Doc. 2016–12196 Filed 5–24–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hydrographic Services Review Panel

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of membership solicitation for Hydrographic Services Review Panel.

SUMMARY: In accordance with the Hydrographic Service Improvements Act Amendments of 2002, Public Law 107–372, the Administrator of the National Oceanic and Atmospheric Administration (NOAA) is required to solicit nominations for membership at least once a year for the Hydrographic Services Review Panel (HSRP). The HSRP, a Federal advisory committee, advises the Administrator on matters related to the responsibilities and authorities set forth in section 303 of the Hydrographic Services Improvement Act and such other appropriate matters as the Administrator refers to the Panel for review and advice. Those responsibilities and authorities include, but are not limited to: Acquiring and disseminating hydrographic data and providing hydrographic services, as those terms are defined in the Act; promulgating standards for hydrographic data and services; ensuring comprehensive geographic coverage of hydrographic services; and testing, developing, and operating vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services.

The Act states "the voting members of the Panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields relating to hydrographic data and hydrographic services, marine transportation, port administration, vessel pilotage, coastal and fishery management, and other disciplines as determined appropriate by the Administrator." The NOAA Administrator seeks and encourages individuals with expertise in marine navigation, port administration, marine shipping or other intermodal transportation industries, cartography and geographic information systems, geodesy, physical oceanography coastal resource management, including coastal resilience and emergency response, and other related fields. To apply for membership on the Panel, applicants are requested to submit the following five items and answer five response questions. The entire package should be a maximum length of seven pages or fewer. NOAA is an equal opportunity employer.

(1) A cover letter that responds to the five questions listed below as a statement of interest to serve on the panel, "Short Response Questions" below.

(2) Highlight the nominee's specific area(s) of expertise relevant to the purpose of the Panel from the list in the **Federal Register** Notice;

(3) A current resume.

(4) A short biography of 400 to 600 words.

(5) The nominee's full name, title, institutional affiliation, and contact information.

Short Response Questions

(1) List the area(s) of expertise, as listed above, which you would best represent on this Panel.

(2) List the geographic region(s) of the country with which you primarily associate your expertise.

(3) Describe your leadership or professional experiences which you believe will contribute to the effectiveness of this panel.

(4) Describe your familiarity and experience with NOAA navigation data, products, and services.

(5) Generally describe the breadth and scope of stakeholders, users, or other groups whose views and input you believe you can share with the panel.

DATES: Solicitation of nomination is on an ongoing basis through June 30, 2017. The HSRP maintains a pool of candidates to fulfill the HSIA requirements on membership solicitation. Although there are no current vacancies on the HSRP, this solicitation seeks to update the current pool of candidates for consideration of appointment for potential future vacancies on the Panel. Your application will be kept on file for the next call for nominations in summer 2017 which will fill vacancies in 2018. You will not need to reapply in 2017.

ADDRESSES: Nominations will be accepted by email and should be sent to: *Hydroservices.panel@noaa.gov;* or *Lynne.Mersfelder@noaa.gov.* You will receive a confirmation response.

FOR FURTHER INFORMATION CONTACT: Lynne Mersfelder-Lewis, NOAA, telephone: 301–713–2750 x166.

SUPPLEMENTARY INFORMATION: Under 33 U.S.C. 883a, *et seq.*, NOAA's National Ocean Service (NOS) is responsible for providing nautical charts and related information for safe navigation. NOS collects and compiles hydrographic, tidal and current, geodetic, and a variety of other data in order to fulfill this responsibility. The HSRP provides advice on current and emerging oceanographic and marine science technologies relating to operations, research and development; and dissemination of data pertaining to:

(a) Hydrographic surveying;
(b) shoreline surveying;
(c) nautical charting;
(d) water level measurements;
(e) current measurements;
(f) geodetic measurements;
(g) geospatial measurements;
(h) geomagnetic measurements; and
(i) other oceanographic/marine related sciences.

The Panel has fifteen voting members appointed by the NOAA Administrator in accordance with 33 U.S.C. 892c. Members are selected on a standardized basis, in accordance with applicable Department of Commerce guidance. The Co-Directors of the Center for Coastal and Ocean Mapping/Joint Hydrographic Center and two other NOAA employees serve as nonvoting members of the Panel. The Director, NOAA Office of Coast Survey, serves as the Designated Federal Official (DFO).

Voting members are individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more disciplines relating to hydrographic surveying, tides, currents, geodetic and geospatial measurements, marine transportation, port administration, vessel pilotage, coastal or fishery management, and other oceanographic or marine science areas as deemed appropriate by the Administrator. Full-time officers or employees of the United States may not be appointed as a voting member. Any voting member of the Panel who is an applicant for, or beneficiary of (as determined by the Administrator) any assistance under 33 U.S.C. 892c shall disclose to the Panel that relationship, and may not vote on any other matter pertaining to that assistance.

Voting members of the Panel serve a four-year term, except that vacancy appointments are for the remainder of the unexpired term of the vacancy. Members serve at the discretion of the Administrator and are subject to government ethics standards. Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve until his or her successor has taken office. The Panel selects one voting member to serve as the Chair and another to serve as the Vice Chair. The Vice Chair acts as Chair in the absence or incapacity of the Chair but will not automatically become the Chair if the Chair resigns. Meetings occur at least twice a year, and at the call of the Chair or upon the request of a majority of the voting members or of the Administrator. Voting members receive compensation at a rate established by the Administrator, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when engaged in performing duties for the Panel. Members are reimbursed for actual and reasonable expenses incurred in performing such duties.

Individuals Selected for Panel Membership

Upon selection and agreement to serve on the HSRP Panel, you become a Special Government Employee (SGE) of the United States Government. 18 U.S.C. 202(a) an SGE (s) is an officer or employee of an agency who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, either on a fulltime or intermittent basis. Please be aware that after the selection process is complete, applicants selected to serve on the Panel must complete the following actions before they can be appointed as a Panel member:

(a) Security Clearance (on-line Background Security Check process and fingerprinting conducted through NOAA Workforce Management); and

(b) Confidential Financial Disclosure Report—As an SGE, you are required to file a Confidential Financial Disclosure Report to avoid involvement in a real or apparent conflict of interest. You may find the Confidential Financial Disclosure Report at the following Web site. *http://www.usoge.gov/forms/form_450.aspx.*

Dated: May 9, 2016.

Gerd F. Glang,

NOAA, Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2016–12323 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Proposed Findings Document and Programmatic Environmental Assessment

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and the U.S. Environmental Protection Agency.

ACTION: Notice of availability of Proposed Findings Document and Programmatic Environmental Assessment on approval of the Coastal Nonpoint Pollution Control Program for Illinois.

SUMMARY: Notice is hereby given of the availability of the Proposed Findings Document and Programmatic Environmental Assessment for Illinois' Coastal Nonpoint Pollution Control Program. Coastal states and territories are required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval. The Findings Document was prepared by NOAA and the EPA to provide the rationale for the agencies' decision to approve, with conditions, the state coastal nonpoint pollution control program. The Coastal Zone Act Reauthorization Amendments (CZARA) requires states and territories with coastal zone management programs that have received approval under the Coastal Zone Management Act to develop and implement coastal nonpoint programs. The Programmatic Environmental Assessment was prepared by NOAA, pursuant to the National Environmental Policy Act (NEPA), to assess the environmental impacts associated with the approval of the coastal nonpoint pollution control program submitted to NOAA and the EPA by Illinois.

NOAA and the EPA have proposed to approve, with conditions, the coastal nonpoint program submitted by Illinois.

DATES: Individuals or organizations wishing to submit comments on the proposed Findings or Programmatic Environmental Assessment should do so by June 24, 2016.

ADDRESSES: Comments should be made to: Joelle Gore, Chief, Stewardship Division (N/OCM6), ATTN: Illinois Coastal Nonpoint Program, Office for Coastal Management, NOS, NOAA, 1305

East-West Highway, Silver Spring, Maryland, 20910, phone (240) 533–0813, email *ocm.czara@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the proposed Findings Document and Programmatic Environmental Assessment may be found on the NOAA Web site at *http://coast.noaa.gov/czm/pollutioncontrol/* or may be obtained upon request from: Allison Castellan, Stewardship Division (N/OCM6), Office for Coastal Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, phone (240) 533–0799, email *allison.castellan@noaa.gov.*

SUPPLEMENTARY INFORMATION: The requirements of 40 CFR parts 1500–1508 (Council on Environmental Quality (CEQ) regulations to implement the National Environmental Policy Act) apply to the preparation of Environmental Assessments. Specifically, 40 CFR 1506.6 requires agencies to provide public notice of the availability of environmental documents. This notice is part of NOAA's action to comply with this requirement.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: May 18, 2016.

W. Russell Callender,

Deputy Assistant Administrator for Ocean Services, National Oceanic and Atmospheric Administration.

Joel Beauvais,

Deputy Assistant Administrator, Office of Water, Environmental Protection Agency.

[FR Doc. 2016–12328 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA756

Marine Mammals; File No. 15537

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that an amendment to Permit No. 15537 has been issued to Institute for Marine Mammal Studies (IMMS), P.O. Box 207, Gulfport, MS 39502 (Dr. Moby Solangi, Responsible Party).

ADDRESSES: The permit amendment and related documents are available for review upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On June 30, 2015, notice was published in the **Federal Register** (80 FR 37235) that NMFS was considering an amendment to Permit No. 15337 in response to a court decision to remand this permit to NMFS for reconsideration. The requested permit amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 15537 was issued on October 5, 2011 authorizing the acquisition of up to eight stranded, releasable California sea lions (*Zalophus californianus*) from the NMFS Marine Mammal Health and Stranding Response Program for the purposes of public display. After NMFS issued the permit, IMMS challenged the provisions of the permit in U.S. District Court. As described in the Court's opinion, the Court remanded the permit to NMFS for reconsideration. *IMMS* v. *NMFS, No. 1:11CV318–LG–JMR* (S.D.Miss. 2014). NMFS has amended the permit to remove Permit Condition B.3 and change Permit Condition B.2 to state the following:

> Condition B.2.: This permit does not guarantee that the Permit Holder will be able to obtain any releasable sea lions from rehabilitation facilities, and does not require NMFS to direct or make arrangements for any rehabilitation facilities to provide the Permit Holder with releasable sea lions. Final decisions with respect to the use of rehabilitated marine mammals for public display purposes in lieu of take from the wild are at the ultimate discretion of the Office Director in accordance with 50 CFR 216.27(b)(4).

In addition, NMFS has extended the permit for one additional year, to expire on October 5, 2017.

In compliance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*), NMFS has determined that the activities proposed are consistent with those analyzed in the environmental assessment (EA) for issuance of Permit No. 15537, and no additional NEPA analysis is necessary as the minor changes in the proposed amendment will not change the effects to the human environment in a manner not previously considered. Based on the analyses in the EA, NMFS determined that the activities proposed would not significantly impact the quality of the human environment and that preparation of an environmental impact statement was not required. That determination is documented in a Finding of No Significant Impact.

Dated: May 19, 2016.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–12287 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE490

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the San Francisco Ferry Terminal Expansion Project, South Basin Improvements Project

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from the San Francisco Bay Area Water Emergency Transportation Authority (WETA) for authorization to take marine mammals incidental to construction activities as part of a ferry terminal expansion and improvements project. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting public comment on its proposal to issue an incidental harassment authorization (IHA) to WETA to incidentally take marine mammals, by Level B harassment only, during the specified activity.

DATES: Comments and information must be received no later than June 24, 2016.

ADDRESSES: Comments on this proposal should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910, and electronic comments should be sent to *ITP.mccue@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted to the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/construction.html* without change. All personal identifying information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Laura McCue, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of WETA's application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.html*. In case of problems accessing these documents, please call the contact listed above.

National Environmental Policy Act

NMFS is currently conducting an analysis, pursuant to National Environmental Policy Act (NEPA), to determine whether or not this proposed activity may have a significant effect on the human environment. This analysis will be completed prior to the issuance or denial of this proposed IHA.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified area, the incidental, but not intentional, taking of small numbers of marine mammals, providing that certain findings are made and the necessary prescriptions are established.

The incidental taking of small numbers of marine mammals may be allowed only if NMFS (through authority delegated by the Secretary) finds that the total taking by the specified activity during the specified time period will (i) have a negligible impact on the species or stock(s) and (ii) not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). Further, the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking must be set forth, either in specific regulations or in an authorization.

The allowance of such incidental taking under section 101(a)(5)(A), by harassment, serious injury, death, or a combination thereof, requires that regulations be established. Subsequently, a Letter of Authorization may be issued pursuant to the prescriptions established in such regulations, providing that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations. Under section 101(a)(5)(D), NMFS may authorize such incidental taking by harassment only, for periods of not more than one year, pursuant to requirements and conditions contained within an IHA. The establishment of prescriptions through either specific regulations or an authorization requires notice and opportunity for public comment.

NMFS has defined "negligible impact" in 50 CFR 216.103 as ". . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival." Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as: ". . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment]."

Summary of Request

On February 8, 2016, we received a request from WETA for authorization of the taking, by level B harassment only, of marine mammals, incidental to pile driving in association with the San Francisco Ferry Terminal Expansion Project, South Basin Improvements Project in San Francisco Bay, California. That request was modified to include additional species and additional monitoring and mitigation measures on March 28, 2016 and May 2, 2016, and a final version, which we deemed adequate and complete, was submitted on May 13, 2016, which included revised take numbers and additional mitigation measures. In-water work associated with the project is expected to be completed within 23 months. This proposed IHA is for the first phase of construction activities (July 1, 2016–December 31, 2016).

The use of both vibratory and impact pile driving is expected to produce underwater sound at levels that have the potential to result in behavioral harassment of marine mammals. Seven species of marine mammals have the potential to be affected by the specified activities: Harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), Northern elephant seal (*Mirounga angustirostris*), Northern fur seal (*Callorhinus ursinus*), harbor porpoise (*Phocoena phocoena*), gray whale (*Eschrichtius robustus*), and bottlenose dolphin (*Tursiops truncatus*). These species may occur year round in the action area.

Similar construction and pile driving activities in San Francisco Bay have been authorized by NMFS in the past. These projects include construction activities at the Exploratorium (75 FR 66065), pier 36 (77 FR 20361), and the Oakland Bay Bridge (71 FR 26750; 72 FR 25748; 74 FR 41684; 76 FR 7156; 78 FR 2371; 79 FR 2421; and 80 FR 43710).

Description of the Specified Activity

Overview

The San Francisco Bay Area Water Emergency Transportation Authority (WETA) is expanding berthing capacity at the Downtown San Francisco Ferry Terminal (Ferry Terminal), located at the San Francisco Ferry Building (Ferry Building), to support existing and future planned water transit services operated on San Francisco Bay by WETA and WETA's emergency operations.

The Downtown San Francisco Ferry Terminal Expansion Project would eventually include phased construction of three new water transit gates and overwater berthing facilities, in addition to supportive landside improvements, such as additional passenger waiting and queuing areas, circulation improvements, and other water transit-related amenities. The new gates and other improvements would be designed to accommodate future planned water transit services between Downtown San Francisco and Antioch, Berkeley, Martinez, Hercules, Redwood City, Richmond, and Treasure Island, as well as emergency operation needs. According to current planning and operating assumptions, WETA will not require all three new gates (Gates A, F, and G) to support existing and new services immediately. As a result, WETA is planning that project construction will be phased. The first phase will include construction of Gates

F and G, as well as other related improvements in the South Basin.

Dates and Duration

The total project is expected to require a maximum of 130 days of in-water pile driving. The project may require up to 23 months for completion; with a maximum of 106 days for pile driving in the first year. In-water activities are limited to occur between July 1 and November 30, 2016 and June 1 through November 30, 2017. If in-water work will extend beyond the effective dates of the IHA, a second IHA application will be submitted by WETA. This proposed authorization would be effective from July 1, 2016 to December 31, 2016.

Specific Geographic Region

The San Francisco ferry terminal is located in the western shore of San Francisco Bay (see Figure 1 of WETA's application). The ferry terminal is five blocks north of the San Francisco Oakland Bay Bridge. More specifically, the south basin of the ferry terminal is located between Pier 14 and the ferry plaza. San Francisco Bay and the adjacent Sacramento-San Joaquin Delta make up one of the largest estuarine systems on the continent. The Bay has undergone extensive industrialization, but remains an important environment for healthy marine mammal populations year round. The area surrounding the proposed activity is an intertidal landscape with heavy industrial use and boat traffic.

Detailed Description of Activities

The project supports existing and future planned water transit services operated by WETA, and regional policies to encourage transit uses. Furthermore, the project addresses deficiencies in the transportation network that impede water transit operation, passenger access, and passenger circulation at the Ferry Terminal.

The project includes construction of two new water transit gates and associated overwater berthing facilities, in addition to supportive improvements, such as additional passenger waiting and queuing areas and circulation improvements in a 7.7-acre area (see Figure 1 in the WETA's application, which depicts the project area, and Figure 2, which depicts the project improvements). The project includes the following elements: (1) Removal of portions of existing deck and pile construction (portions will remain as open water, and other portions will be replaced); (2) Construction of two new gates (Gates F and G); (3) Relocation of an existing gate (Gate E); and (4) Improved passenger boarding areas, amenities, and circulation, including extending the East Bayside Promenade along Gates E, F, and G; strengthening the South Apron of the Agriculture Building; creating the Embarcadero Plaza; and installing weather protection canopies for passenger queuing.

Implementation of the project improvements will result in a change in the type and area of structures over San Francisco Bay. In some areas, structures will be demolished and then rebuilt. The project will require both the removal and installation of piles as summarized in Table 1. Demolition and construction could be completed within 23 months.

TABLE 1—SUMMARY OF PILE REMOVAL AND INSTALLATION

Project element	Pile diameter	Pile type	Method	Number of piles/schedule
Demolition in the South Basin.	12 to 18 inches	Wood and concrete	Pull or cut off 2 feet below mud line.	350 piles/30 days 2016.
Removal of Dolphin Piles in the South Basin.	36 inches	Steel: 140 to 150 feet in length.	Pull out	Four dolphin piles.
Embarcadero Plaza and East Bayside Promenade.	24 or 36 inches	Steel: 135 to 155 feet in length.	Impact or Vibratory Driver	220 24- or 36-inch piles/65 days 2016.
Gates E, F, and G Dolphin Piles.	36 inches	Steel: 145 to 155 feet in length.	Impact or Vibratory Driver	14 total: Two at each of the floats for protection; two between each of the floats; and four adjacent to the breakwater.
Gates F and G Guide Piles	36 inches	Steel: 140 to 150 feet in length.	Impact or Vibratory Driver	12 (6 per gate)/12 days 2017.
Gate E Guide Piles	36 inches	Steel: 145 to 155 feet in length.	Vibratory Driver for removal, may be reinstalled with an impact driver.	Six piles will be removed and reinstalled/12 days 2017.
Fender Piles	14 inches	Polyurethane-coated pressure-treated wood; 64 feet in length.	Impact or Vibratory Driver	38/10 days 2016.

Removal of Existing Facilities

As part of the project, the remnants of Pier 2 will be demolished and removed. This consists of approximately 21,000 square feet of existing deck structure supported by approximately 350 wood and concrete piles. In addition, four dolphin piles will be removed. Demolition will be conducted from barges. Two barges will be required: One for materials storage, and one outfitted with demolition equipment (crane, clamshell bucket for pulling of piles, and excavator for removal of the deck). Diesel-powered tug boats will bring the barges to the project area, where they will be anchored. Piles will be removed by either cutting them off two feet below the mud line or pulling the pile.

Construction of Gates and Berthing Structures

The new gates (Gates F and G) will be built similarly. Each gate will be designed with an entrance portal—a prominent doorway physically separating the berthing structures from the surrounding area. Berthing structures will be provided for each new gate, consisting of floats, gangways, and guide piles. The steel floats will be approximately 42 feet wide by 135 feet long. The steel truss gangways will be approximately 14 feet wide and 105 feet long. The gangway will be designed to rise and fall with tidal variations while meeting Americans with Disabilities Act

(ADA) requirements. The gangway and the float will be designed with canopies, consistent with the current design of existing Gates B and E. The berthing structures will be fabricated off site and floated to the project area by barge. Six steel guide piles will be required to secure each float in place. In addition, dolphin piles may be used at each berthing structure to protect against the collision of vessels with other structures or vessels. A total of up to 14 dolphin piles may be installed.

Chock-block fendering will be added along the East Bayside Promenade, to adjacent structures to protect against collision. The chock-block fendering will consist of square, 12-inch-wide, polyurethane-coated, pressure-treated wood blocks that are connected along the side of the adjacent pier structure, and supported by polyurethane-coated, pressure-treated wood piles. In addition, the existing Gate E float will be moved 43 feet to the east, to align with the new gates and East Bayside Promenade. The existing six 36-inch-diameter steel guide piles will be removed using vibratory extraction, and reinstalled to secure the Gate E float in place. Because of Gate E's new location, to meet ADA requirements, the existing 90-foot-long steel truss gangway will be replaced with a longer, 105-foot-long gangway.

Passenger Boarding and Circulation Areas

Several improvements will be made to passenger boarding and circulation areas. New deck and pile-supported structures will be built.

- An Embarcadero Plaza, elevated approximately 3 to 4 feet above current grade, will be created. The Embarcadero Plaza will require new deck and pile construction to fill an open-water area and replace existing structures that do not comply with Essential Facilities requirements.
- The East Bayside Promenade will be extended to create continuous pedestrian access to Gates E, F, and G, as well as to meet public access and pedestrian circulation requirements along San Francisco Bay. It will extend approximately 430 feet in length, and will provide an approximately 25-foot-wide area for pedestrian circulation and public access along Gates E, F, and G. The perimeter of the East Bayside Promenade will also include a curbed edge with a guardrail.
- Short access piers, approximately 30 feet wide and 45 feet long, will extend from the East Bayside Promenade to the portal for each gate.
- The South Apron of the Agriculture Building will be upgraded to temporarily support access for passenger circulation. Depending on their condition, as determined during Final Design, the piles supporting this apron may need to be strengthened with steel jackets.
- Two canopies will be constructed along the East Bayside Promenade: One between Gates E and F, and one between Gates F and G. Each of the canopies will be 125 feet long and 20 feet wide. Each canopy will be supported by four columns at 35 feet on center, with 10-foot cantilevers at either end. The canopies will be constructed of steel and glass, and will include photovoltaic cells.

The new deck will be constructed on the piles, using a system of beam-and-flat-slab-concrete construction, similar to what has been built in the Ferry Building area. The beam-and-slab construction will be either precast or cast-in-place concrete (or a combination of the two), and approximately 2.5 feet thick. Above the structure, granite paving or a concrete topping slab will provide a finished pedestrian surface.

The passenger facilities, amenities, and public space improvements—such as the entrance portals, canopy structures, lighting, guardrails, and furnishings—will be surface-mounted on the pier structures after the new construction and repair are complete. The canopies and entrance portals will be constructed offsite, delivered to the site, craned into place by barge, and assembled onsite. The glazing materials, cladding materials, granite pavers, guardrails, and furnishings will be assembled onsite.

Dredging Requirements

The side-loading vessels require a depth of 12.5 feet below mean lower low water (MLLW) on the approach and in the berthing area. Based on a bathymetric survey conducted in 2015, it is estimated that the new Gates F and G will require dredging to meet the required depths. The expected dredging volumes are presented in Table 2. These estimates are based on dredging the approach areas to 123.5 feet below MLLW, and 2 feet of overdredge depth, to account for inaccuracies in dredging practices. The dredging will take approximately 2 months.

TABLE 2—SUMMARY OF DREDGING REQUIREMENTS

Dredging element	Summary
Initial Dredging	
Gate F	0.78 acre/6,006 cubic yards.
Gate G	1.64 acres/14,473 cubic yards.
Total for Gates F and G	2.42 acres/20,479 cubic yards.
Staging	On barges.
Typical Equipment	Clamshell dredge on barge; disposal barge; survey boat.
Duration	2 months.
Maintenance Dredging	
Gates F and G	5,000 to 10,000 cubic yards.
Frequency	Every 3 or 4 years.

Based on observed patterns of sediment accumulation in the Ferry Terminal area, significant sediment accumulation will not be expected, because regular maintenance dredging is not currently required to maintain operations at existing Gates B and E. However, some dredging will likely be required on a regular maintenance cycle beneath the floats at Gates F and G, due to their proximity to the Pier 14 breakwater. It is expected that maintenance dredging will be required every 3 to 4 years, and will require removal of approximately 5,000 to 10,000 cubic yards of material.

Dredging and disposal of dredged materials will be conducted in cooperation with the San Francisco Dredged Materials Management Office (DMMO), including development of a sampling plan, sediment characterization, a sediment removal plan, and disposal in accordance with the Long-Term Management Strategy for San Francisco Bay to ensure beneficial reuse, as appropriate. DMMO consultation is expected to begin in early 2016. Based on the results of the sediment analysis, the alternatives for placement of dredged materials will be evaluated, including disposal at the San Francisco Deep Ocean Disposal Site, disposal at an upland facility, or beneficial reuse. Selection of the disposal site will be reviewed and approved by the DMMO.

Description of Marine Mammals in the Area of the Specified Activity

There are seven marine mammal species which may inhabit or may likely transit through the waters nearby the Ferry Terminal, and which are expected to potentially be taken by the specified activity. These include the Pacific harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), Northern Elephant seal (*Mirounga angustirostris*), Northern fur seal (*Callorhinus ursinus*), harbor porpoise (*Phocoena phocoena*), gray whale (*Eschrichtius robustus*), and bottlenose dolphin (*Tursiops truncatus*). Multiple additional marine mammal species may occasionally enter the activity area in San Francisco Bay but would not be expected to occur in shallow nearshore waters of the action area. Guadalupe fur seals (*Arctocephalus townsendi*) generally do not occur in San Francisco Bay; however, there have been recent sightings of this species due to the El Niño event. Only single individuals of this species have occasionally been sighted inside San Francisco Bay, and their presence near the action area is considered unlikely. No takes are requested for this species, and mitigation measures such as a shutdown zone will be in effect for this species if observed approaching the Level B harassment zone. Although it is possible that a humpback whale (*Megaptera navaeangliae*) may enter San Francisco Bay and find its way into the project area during construction activities, their occurrence is unlikely. No takes are requested for this species, and mitigation measures such as a delay and shutdown procedure will be in effect for this species if observed approaching the Level B harassment zone. Table 3 lists the marine mammal species with expected potential for occurrence in the vicinity of the SF Ferry terminal during the project timeframe and summarizes key information regarding stock status and abundance. Taxonomically, we follow Committee on Taxonomy (2014). Please see NMFS' Stock Assessment Reports (SAR), available at *www.nmfs.noaa.gov/pr/sars*, for more detailed accounts of these stocks' status and abundance. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals*) for generalized species accounts.

TABLE 3—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF SAN FRANCISCO FERRY TERMINAL

Species	Stock	ESA/MMPA Status; strategic (Y/N)[1]	Stock abundance (CV, N_{min}, most recent abundance survey)[2]	PBR[3]	Relative occurrence in Strait of Juan de Fuca; season of occurrence
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family Phocoenidae (porpoises)					
Harbor porpoise	San Francisco-Russian River.	-; N	9,886 (0.51; 6,625; 2011)	66	Common.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family Delphinidae (dolphins)					
Bottlenose dolphin[5]	California coastal	-; N	323 (0.13; 290; 2005)	2.4	Rare.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family Eschrichtiidae					
Gray whale	Eastern N. Pacific	-; N	20,990 (0.05; 20,125; 2011).	624	Rare.
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)					
Family Balaenopteridae					
Humpback whale	California/Oregon/Washington stock.	E; S	1,918	11	Unlikely.
Order Carnivora—Superfamily Pinnipedia					
Family Otariidae (eared seals and sea lions)					
California sea lion	U.S.	-; N	296,750 (n/a; 153,337; 2011).	9,200	Common.
Guadalupe fur seal[5]	Mexico to California	T; S	7,408 (n/a; 3,028; 1993)	91	Unlikely.
Northern fur seal	California stock	-; N	14,050 (n/a; 7,524; 2013)	451	Unlikely.
Family Phocidae (earless seals)					
Harbor seal	California	-; N	30,968 (n/a; 27,348; 2012).	1,641	Common; Year-round resident.
Northern elephant seal	California breeding stock	-; N	179,000 (n/a; 81,368; 2010).	4,882	Rare.

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (see footnote 3) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable. For certain stocks, abundance estimates are actual counts of animals and there is no associated CV. The most recent abundance survey that is reflected in the abundance estimate is presented; there may be more recent surveys that have not yet been incorporated into the estimate.

[3] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

[4] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.*, commercial fisheries, subsistence hunting, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value. All values presented here are from the draft 2015 SARs (*www.nmfs.noaa.gov/pr/sars/draft.htm*).

[5] Abundance estimates for these stocks are greater than eight years old and are therefore not considered current. PBR is considered undetermined for these stocks, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimates and PBR values, as these represent the best available information for use in this document.

Below, for those species that are likely to be taken by the activities described, we offer a brief introduction to the species and relevant stock as well as available information regarding population trends and threats, and describe any information regarding local occurrence.

Harbor Seal

The Pacific harbor seal is one of five subspecies of *Phoca vitulina,* or the common harbor seal. There are five species of harbor seal in the Pacific EEZ: (1) California stock; (2) Oregon/Washington coast stock; (3) Washington Northern inland waters stock; (4) Southern Puget Sound stock; and (5) Hood Canal stock. Only the California stock occurs in the action area and is analyzed in this document. The current abundance estimate for this stock is 30,968. This stock is not considered strategic or designated as depleted under the MMPA and is not listed under the ESA. PBR is 1,641 animals per year. The average annual rate of incidental commercial fishery mortality (30 animals) is less than 10% of the calculated PBR (1,641 animals); therefore, fishery mortality is considered insignificant (Allen and Angliss, 2013).

Although generally solitary in the water, harbor seals congregate at haulouts to rest, socialize, breed, molt. Habitats used as haul-out sites include tidal rocks, bayflats, sandbars, and sandy beaches (Zeiner et al., 1990). Haul-out sites are relatively consistent from year-to-year (Kopec and Harvey, 1995), and females have been recorded returning to their own natal haul-out when breeding (Cunningham et al., 2009). Long-term monitoring studies have been conducted at the largest harbor seal colonies in Point Reyes National Seashore and Golden Gate National Recreation Area since 1976. Castro Rocks and other haulouts in San Francisco Bay are part of the regional survey area for this study and have been included in annual survey efforts. Between 2007 and 2012, the average number of adults observed ranged from 126 to 166 during the breeding season (March through May), and from 92 to 129 during the molting season (June through July) (Truchinski et al., 2008; Flynn et al., 2009; Codde et al., 2010; Codde et al., 2011; Codde et al., 2012; Codde and Allen, 2015). Marine mammal monitoring at multiple locations inside San Francisco Bay was conducted by Caltrans from May 1998 to February 2002, and determined that at least 500 harbor seals populate San Francisco Bay (Green et al., 2002). This estimate is consistent with previous seal counts in the San Francisco Bay, which ranged from 524 to 641 seals from 1987 to 1999 (Goals Project, 2000). Although harbor seals haul-out at approximately 20 locations in San Francisco Bay, there are three locations that serve as primary locations: Mowry Slough in the south Bay, Corte Madera Marsh and Castro Rocks in the north Bay, and Yerba Buena Island in the central Bay (Grigg, 2008; Gibble, 2011). The main pupping areas in the San Francisco Bay are at Mowry Slough and Castro Rocks (Caltrans, 2012). Pupping season for harbor seals in San Francisco Bay spans from approximately March 15 through May 31, with pup numbers generally peaking in late April or May (Caretta et al 2015). Births of harbor seals have not been observed at Corte Madera Marsh and Yerba Buena Island, but a few pups have been seen at these sites. Harbor seals forage in shallow waters on a variety of fish and crustaceans that are present throughout much of San Francisco Bay, and therefore could occasionally be found foraging in the action area as well.

California Sea Lion

California sea lions range all along the western border of North America. The breeding areas of the California sea lion are on islands located in southern California, western Baja California, and the Gulf of California (Allen and Angliss 2015). Although California sea lions forage and conduct many activities in the water, they also use haul-outs. California sea lions breed in Southern California and along the Channel Islands during the spring. The current population estimate for California sea lions is 296,750 animals. This species is not considered strategic under the MMPA, and is not designated as depleted. This species is also not listed under the ESA. PBR is 9,200 (Caretta et al, 2015). Interactions with fisheries, boat collisions, human interactions, and entanglement are the main threats to this species (Caretta et al 2015).

El Niño affects California sea lion populations, with increased observations and strandings of this species in the area. Current observations of this species in CA have increased significantly over the past few years. Additionally, as a result of the large numbers of sea lion strandings in 2013, NOAA declared an unusual mortality event (UME). Although the exact causes of this UME are unknown, two hypotheses meriting further study include nutritional stress of pups resulting from a lack of forage fish available to lactating mothers and unknown disease agents during that time period.

In San Francisco Bay, sea lions haul out primarily on floating K docks at Pier 39 in the Fisherman's Wharf area of the San Francisco Marina. The Pier 39 haul out is approximately 1.5 miles from the project vicinity. The Marine Mammal Center (TMMC) in Sausalito, California has performed monitoring surveys at this location since 1991. A maximum of 1,706 sea lions was seen hauled out during one survey effort in 2009 (TMMC, 2015). Winter numbers are generally over 500 animals (Goals Project, 2000). In August to September, counts average from 350 to 850 (NMFS, 2004). Of the California sea lions observed, approximately 85 percent were male. No pupping activity has been observed at this site or at other locations in the San Francisco Bay (Caltrans, 2012). The California sea lions usually frequent Pier 39 in August after returning from the Channel Islands (Caltrans, 2013). In addition to the Pier 39 haul-out, California sea lions haul out on buoys and similar structures throughout San Francisco Bay. They mainly are seen swimming off the San Francisco and Marin shorelines within San Francisco Bay, but may occasionally enter the project area to forage.

Although there is little information regarding the foraging behavior of the California sea lion in the San Francisco Bay, they have been observed foraging on a regular basis in the shipping channel south of Yerba Buena Island. Foraging grounds have also been identified for pinnipeds, including sea lions, between Yerba Buena Island and Treasure Island, as well as off the Tiburon Peninsula (Caltrans, 2001).

Northern Elephant Seal

Northern elephant seals breed and give birth in California (U.S.) and Baja California (Mexico), primarily on offshore islands (Stewart et al. 1994), from December to March (Stewart and Huber 1993). Although movement and genetic exchange continues between rookeries, most elephant seals return to natal rookeries when they start breeding (Huber et al. 1991). The California breeding population is now demographically isolated from the Baja California population, and is the only stock to occur near the action area. The current abundance estimate for this stock is 179,000 animals, with PBR at 4,882 animals (Caretta et al 2015). The population is reported to have grown at 3.8% annually since 1988 (Lowry et al. 2014). Fishery interactions and marine debris entanglement are the biggest threats to this species (Caretta et al 2015). Northern elephant seals are not listed under the Endangered Species Act, nor are they designated as depleted, or considered strategic under the MMPA.

Northern elephant seals are common on California coastal mainland and island sites where they pup, breed, rest, and molt. The largest rookeries are on San Nicolas and San Miguel islands in the Northern Channel Islands. In the vicinity of San Francisco Bay, elephant seals breed, molt, and haul out at Año Nuevo Island, the Farallon Islands, and Point Reyes National Seashore (Lowry et al., 2014). Adults reside in offshore pelagic waters when not breeding or molting. Northern elephant seals haul out to give birth and breed from December through March, and pups remain onshore or in adjacent shallow water through May, when they may occasionally make brief stops in San Francisco Bay (Caltrans, 2015b). The most recent sighting was in 2012 on the beach at Clipper Cove on Treasure Island, when a healthy yearling elephant seal hauled out for approximately one day. Approximately 100 juvenile northern elephant seals strand in San Francisco Bay each year, including individual strandings at Yerba Buena Island and Treasure Island (fewer than 10 strandings per year) (Caltrans, 2015b). When pups of the year return in the late summer and fall to haul out at rookery sites, they may also occasionally make brief stops in San Francisco Bay.

Northern Fur Seal

Northern fur seals (*Callorhinus ursinus*) occur from southern California north to the Bering Sea and west to the Okhotsk Sea and Honshu Island, Japan. During the breeding season, approximately 74% of the worldwide population is found on the Pribilof Islands in the southern Bering Sea, with the remaining animals spread throughout the North Pacific Ocean (Lander and Kajimura 1982). Of the seals in U.S. waters outside of the Pribilofs, approximately one percent of the population is found on Bogoslof Island in the southern Bering Sea, San Miguel Island off southern California (NMFS 2007), and the Farallon Islands off central California. Two separate stocks of northern fur seals are recognized within U.S. waters: An Eastern Pacific stock and a California stock (including San Miguel Island and the Farallon Islands). Only the California breeding stock is considered here since it is the only stock to occur near the action area. The current abundance estimate for this stock is 14,050 and PBR is set at 451 animals (Caretta et al 2015). This stock has grown exponentially during the past several years. Interaction with fisheries remains the top threat to this species (Caretta et al, 2015). This stock is not considered depleted or classified as strategic under the MMPA, and is not listed under the ESA.

Harbor Porpoise

In the Pacific, harbor porpoise are found in coastal and inland waters from Point Conception, California to Alaska and across to Kamchatka and Japan (Gaskin 1984). Harbor porpoise appear to have more restricted movements along the western coast of the continental U.S. than along the eastern coast. Regional differences in pollutant residues in harbor porpoise indicate that they do not move extensively between California, Oregon, and Washington (Calambokidis and Barlow 1991). That study also showed some regional differences within California (Allen and Angliss, 2014). Of the 10 stocks of Pacific harbor porpoise, only the San Francisco-Russian River stock is considered here since it is the only stock to occur near the action area. This current abundance estimate for this stock is 9,886 animals, with a PBR of 66 animals (Caretta et al 2015). Current population trends are not available for this stock. The main threats to this stock include fishery interactions. This stock is not designated as strategic or considered depleted under the MMPA, and is not listed under the ESA.

Gray Whale

Once common throughout the Northern Hemisphere, the gray whale was extinct in the Atlantic by the early 1700s. Gray whales are now only commonly found in the North Pacific. Genetic comparisons indicate there are distinct "Eastern North Pacific" (ENP) and "Western North Pacific" (WNP) population stocks, with differentiation in both mtDNA haplotype and microsatellite allele frequencies (LeDuc et al. 2002; Lang et al. 2011a; Weller et al. 2013). Only the ENP stock occurs in the action area and is considered in this document. The current population estimate for this stock is 20,990 animals, with PBR at 624 animals (Caretta et al, 2015). The population size of the ENP gray whale stock has increased over several decades despite an UME in 1999 and 2000 and has been relatively stable since the mid-1990s. Interactions with fisheries, ship strikes, entanglement in marine debris, and habitat degradation are the main concerns for the gray whale population (Caretta et al 2015). This stock is not listed under the ESA, and is not considered a strategic stock or designated as depleted under the MMPA.

Bottlenose Dolphin

Bottlenose dolphins are distributed worldwide in tropical and warm-temperate waters. In many regions, including California, separate coastal and offshore populations are known (Walker 1981; Ross and Cockcroft 1990; Van Waerebeek et al. 1990). There are genetic differences between the populations; based on nuclear and mtDNA analyses, there are no shared haplotypes between coastal and offshore animals and significant genetic differentiation between the two ecotypes was evident (Caretta et al 2008). California coastal bottlenose dolphins are found within about one kilometer of shore (Hansen, 1990; Carretta et al. 1998; Defran and Weller 1999) primarily from Point Conception south into Mexican waters, at least as far south as San Quintin, Mexico. Oceanographic events appear to influence the distribution of animals along the coasts of California and Baja California, Mexico, as indicated by El Niño events. There are three stocks of bottlenose dolphins in the Pacific: (1) California coastal stock, (2) California, Oregon, and Washington offshore stock, and (3) Hawaiian stock. Only the California coastal stock may occur in the action area. The current stock abundance estimate for the California coastal stock is 323 animals, with PBR at 2.4 animals (Caretta et al 2008). Pollutant levels in California are a threat to this species, and this stock may be vulnerable to disease outbreaks, particularly morbillivirus (Caretta et al 2008). This stock is not listed under the ESA, and is not considered strategic or designated as depleted under the MMPA.

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity (*e.g.*, sound produced by pile driving) may impact marine mammals and their habitat. The *Estimated Take by Incidental Harassment* section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The *Negligible Impact Analysis* section will include an analysis of how this specific activity will impact marine mammals and will consider the content of this section, the *Estimated Take by Incidental Harassment* section and the *Proposed Mitigation* section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks. In the following discussion, we provide general background information on sound and marine mammal hearing before considering potential effects to marine mammals from sound produced by vibratory and impact pile driving.

Description of Sound Sources

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds and attenuate (decrease) more rapidly in shallower water. Amplitude is the height of the sound pressure wave or the 'loudness' of a sound and is typically measured using the decibel (dB) scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to 1 microPascal (μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1 μPa). The received level is the sound level at the listener's position. Note that all underwater sound levels in this document are referenced to a pressure of 1 μPa and all airborne sound levels in this document are referenced to a pressure of 20 μPa.

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Rms is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Rms accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in all directions away from the source (similar to ripples on the surface of a pond), except in cases where the source is directional. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.*, 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.*, waves, earthquakes, ice, atmospheric sound), biological (*e.g.*, sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.*, vessels, dredging, aircraft, construction). A number of sources contribute to ambient sound, including the following (Richardson *et al.*, 1995):

- Wind and waves: The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient noise for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf noise becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions.
- Precipitation: Sound from rain and hail impacting the water surface can become an important component of total noise at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times.
- Biological: Marine mammals can contribute significantly to ambient noise levels, as can some fish and shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz.
- Anthropogenic: Sources of ambient noise related to human activity include transportation (surface vessels and aircraft), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Shipping noise typically dominates the total ambient noise for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly (Richardson *et al.*, 1995). Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.*, a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise "ambient" or "background" sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.*, 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

The underwater acoustic environment at the ferry terminal is likely to be dominated by noise from day-to-day port and vessel activities. This is a highly industrialized area with high-use from small- to medium-sized vessels, and larger vessel that use the nearby major shipping channel. Underwater sound levels for water transit vessels, which operate throughout the day from the San Francisco Ferry Building ranged from 152 dB to 177 dB (WETA, 2003a). While there are no current measurements of ambient noise levels at the ferry terminal, it is likely that levels within the basin periodically exceed the 120 dB threshold and, therefore, that the high levels of anthropogenic activity in the basin create an environment far different from quieter habitats where behavioral reactions to sounds around the 120 dB threshold have been observed (*e.g.,* Malme *et al.,* 1984, 1988).

In-water construction activities associated with the project would include impact pile driving and vibratory pile driving. The sounds produced by these activities fall into one of two general sound types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.,* (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (*e.g.,* explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986; Harris, 1998; NIOSH, 1998; ISO, 2003; ANSI, 2005) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems (such as those used by the U.S. Navy). The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper, 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak SPLs may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.,* 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson *et al.,* 2005).

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals, and exposure to sound can have deleterious effects. To appropriately assess these potential effects, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on measured or estimated hearing ranges on the basis of available behavioral data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. The lower and/or upper frequencies for some of these functional hearing groups have been modified from those designated by Southall *et al.* (2007). The functional groups and the associated frequencies are indicated below (note that these frequency ranges do not necessarily correspond to the range of best hearing, which varies by species):

- Low frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 25 kHz (up to 30 kHz in some species), with best hearing estimated to be from 100 Hz to 8 kHz (Watkins, 1986; Ketten, 1998; Houser *et al.,* 2001; Au *et al.,* 2006; Lucifredi and Stein, 2007; Ketten *et al.,* 2007; Parks *et al.,* 2007a; Ketten and Mountain, 2009; Tubelli *et al.,* 2012);
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz with best hearing from 10 to less than 100 kHz (Johnson, 1967; White, 1977; Richardson *et al.,* 1995; Szymanski *et al.,* 1999; Kastelein *et al.,* 2003; Finneran *et al.,* 2005a, 2009; Nachtigall *et al.,* 2005, 2008; Yuen *et al.,* 2005; Popov *et al.,* 2007; Au and Hastings, 2008; Houser *et al.,* 2008; Pacini *et al.,* 2010, 2011; Schlundt *et al.,* 2011);
- High frequency cetaceans (eight species of true porpoises, six species of river dolphins, and members of the genera *Kogia* and *Cephalorhynchus;* now considered to include two members of the genus *Lagenorhynchus* on the basis of recent echolocation data and genetic data [May-Collado and Agnarsson, 2006; Kyhn *et al.* 2009, 2010; Tougaard *et al.* 2010]): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz (Popov and Supin, 1990a,b; Kastelein *et al.,* 2002; Popov *et al.,* 2005);
- Phocid pinnipeds in Water: Functional hearing is estimated to occur between approximately 75 Hz and 100 kHz with best hearing between 1–50 kHz (Møhl, 1968; Terhune and Ronald, 1971, 1972; Richardson *et al.,* 1995; Kastak and Schusterman, 1999; Reichmuth, 2008; Kastelein *et al.,* 2009); and

Otariid pinnipeds in Water: Functional hearing is estimated to occur between approximately 100 Hz and 48 kHz, with best hearing between 2–48 kHz (Schusterman *et al.,* 1972; Moore and Schusterman, 1987; Babushina *et al.,* 1991; Richardson *et al.,* 1995; Kastak and Schusterman, 1998; Kastelein *et al.,* 2005a; Mulsow and Reichmuth, 2007; Mulsow *et al.,* 2011a, b).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth *et al.,* 2013).

As mentioned previously in this document, seven marine mammal species (three cetaceans and four pinnipeds) may occur in the project area. Of these three cetaceans, one is classified as a low-frequency cetacean (*i.e.* gray whale), one is classified as a mid-frequency cetacean (*i.e.*, bottlenose dolphin), and one is classified as a high-frequency cetaceans (*i.e.*, harbor porpoise) (Southall *et al.*, 2007). Additionally, harbor seals, Northern fur seals, and Northern elephant seals are classified as members of the phocid pinnipeds in water functional hearing group while California sea lions are grouped under the Otariid pinnipeds in water functional hearing group. A species' functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals.

Acoustic Impacts

Please refer to the information given previously (*Description of Sound Sources*) regarding sound, characteristics of sound types, and metrics used in this document. Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.*, 1995; Gordon *et al.*, 2004; Nowacek *et al.*, 2007; Southall *et al.*, 2007; Gotz *et al.*, 2009). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing will occur almost exclusively for noise within an animal's hearing range. We first describe specific manifestations of acoustic effects before providing discussion specific to WETA's construction activities.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal, but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.*, when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe the more severe effects (*i.e.*, permanent hearing impairment, certain non-auditory physical or physiological effects) only briefly as we do not expect that there is a reasonable likelihood that WETA's activities may result in such effects (see below for further discussion). Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.*, 1999; Schlundt *et al.*, 2000; Finneran *et al.*, 2002, 2005b). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.*, 2007). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.*, tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.*, 2007). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (*e.g.*, Ward, 1997). Therefore, NMFS does not consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals—PTS data exists only for a single harbor seal (Kastak *et al.*, 2008)—but are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several decibels above (a 40-dB threshold shift approximates PTS onset; *e.g.*, Kryter *et al.*, 1966; Miller, 1974) that inducing mild TTS (a 6-dB threshold shift approximates TTS onset; *e.g.*, Southall *et al.* 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulse sounds (such as impact pile driving pulses as received close to the source) are at least 6 dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.*, 2007). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.*, change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.*, 2006; Southall *et al.*, 2007; Zimmer and Tyack, 2007). WETA's activities do not involve the use of devices such as explosives or mid-frequency active sonar that are associated with these types of effects.

When a live or dead marine mammal swims or floats onto shore and is incapable of returning to sea, the event is termed a "stranding" (16 U.S.C. 1421h(3)). Marine mammals are known to strand for a variety of reasons, such as infectious agents, biotoxicosis, starvation, fishery interaction, ship strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series (*e.g.*, Geraci *et al.*, 1999). However, the cause or causes of most strandings are unknown (*e.g.*, Best, 1982). Combinations of dissimilar stressors may combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other would not be expected to produce the same outcome (*e.g.*, Sih *et al.*, 2004). For further description of stranding events see, *e.g.*, Southall *et al.*, 2006; Jepson *et al.*, 2013; Wright *et al.*, 2013.

1. *Temporary threshold shift*—TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the data published at the time of this writing

concern TTS elicited by exposure to multiple pulses of sound.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.*, recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale [*Delphinapterus leucas*], harbor porpoise, and Yangtze finless porpoise [*Neophocoena asiaeorientalis*]) and three species of pinnipeds (northern elephant seal, harbor seal, and California sea lion) exposed to a limited number of sound sources (*i.e.*, mostly tones and octave-band noise) in laboratory settings (*e.g.*, Finneran *et al.*, 2002; Nachtigall *et al.*, 2004; Kastak *et al.*, 2005; Lucke *et al.*, 2009; Popov *et al.*, 2011). In general, harbor seals (Kastak *et al.*, 2005; Kastelein *et al.*, 2012a) and harbor porpoises (Lucke *et al.*, 2009; Kastelein *et al.*, 2012b) have a lower TTS onset than other measured pinniped or cetacean species. Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007) and Finneran and Jenkins (2012).

2. *Behavioral effects*—Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.*, minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.*, species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.*, Richardson *et al.*, 1995; Wartzok *et al.*, 2003; Southall *et al.*, 2007; Weilgart, 2007; Archer *et al.*, 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.*, 2012), and can vary depending on characteristics associated with the sound source (*e.g.*, whether it is moving or stationary, number of sources, distance from the source). Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.*, 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a "progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial," rather than as, more generally, moderation in response to human disturbance (Bejder *et al.*, 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.*, 1995; NRC, 2003; Wartzok *et al.*, 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.*, 1997; Finneran *et al.*, 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; see also Richardson *et al.*, 1995; Nowacek *et al.*, 2007).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.*, Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely, and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.*, Frankel and Clark, 2000; Costa *et al.*, 2003; Ng and Leung, 2003; Nowacek *et al.*; 2004; Goldbogen *et al.*, 2013a,b). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.*, foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.*, bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.*, Croll *et al.*, 2001; Nowacek *et al.*; 2004; Madsen *et al.*, 2006; Yazvenko *et al.*, 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response.

Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.*, Kastelein *et al.*, 2001, 2005b, 2006; Gailey *et al.*, 2007).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.*, 2000; Fristrup *et al.*, 2003; Foote *et al.*, 2004), while right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.*, 2007b). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.*, 1994).

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.*, 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.*, 1984). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.*, Bowles *et al.*, 1994; Goold, 1996; Stone *et al.*, 2000; Morton and Symonds, 2002; Gailey *et al.*, 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.*, Blackwell *et al.*, 2004; Bejder *et al.*, 2006; Teilmann *et al.*, 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.*, directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England, 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.*, when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.*, Beauchamp and Livoreil, 1997; Fritz *et al.*, 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.*, decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.*, Harrington and Veitch, 1992; Daan *et al.*, 1996; Bradshaw *et al.*, 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a five-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.*, 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.*, 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

3. *Stress responses*—An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.*, Seyle, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.*, Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.*, 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and "distress" is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.*, Holberton *et al.*, 1996; Hood *et al.*, 1998; Jessop *et al.*, 2003; Krausman *et al.*, 2004; Lankford *et al.*, 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.*, 2002b) and, more rarely, studied in wild populations (*e.g.*, Romano *et al.*, 2002a).

For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as "distress." In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

4. *Auditory masking*—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.*, those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.*, 1995). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.*, snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.*, shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.*, signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.*, sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.*, Clark *et al.*, 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.*, Miller *et al.*, 2000; Foote *et al.*, 2004; Parks *et al.*, 2007b; Di Iorio and Clark, 2009; Holt *et al.*, 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.*, 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014). Masking can be tested directly in captive species (*e.g.*, Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.*, Branstetter *et al.*, 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand, 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.*, from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

Acoustic Effects, Underwater

Potential Effects of Pile Driving Sound—The effects of sounds from pile driving might include one or more of the following: temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson *et al.*, 1995; Gordon *et al.*, 2003; Nowacek *et al.*, 2007; Southall *et al.*, 2007). The effects of pile driving on marine mammals are dependent on several factors, including the type and depth of the animal; the pile size and type, and the intensity and duration of the pile driving sound; the substrate; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile driving activities are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the frequency, received level, and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. In addition, substrates that are soft (*e.g.*, sand) would absorb or attenuate the sound more readily than hard substrates (*e.g.*, rock) which may reflect the acoustic wave. Soft porous substrates would also likely require less time to drive the pile, and possibly less forceful equipment, which would ultimately decrease the intensity of the acoustic source.

In the absence of mitigation, impacts to marine species could be expected to include physiological and behavioral responses to the acoustic signature (Viada *et al.*, 2008). Potential effects from impulsive sound sources like pile driving can range in severity from effects such as behavioral disturbance to temporary or permanent hearing impairment (Yelverton *et al.*, 1973).

Hearing Impairment and Other Physical Effects—Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shifts. PTS constitutes injury, but TTS does not (Southall *et al.*, 2007). Based on the best scientific information available, the SPLs for the construction activities in this project are far below the thresholds that could cause TTS or the onset of PTS: 180 dB re 1 μPa rms for odontocetes and 190 dB re 1 μPa rms for pinnipeds (Table 4).

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.*, 2006; Southall *et al.*, 2007). Studies examining such effects are limited. In general, little is known about the potential for pile driving to cause auditory impairment or other physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.*, 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds, are especially unlikely to incur auditory impairment or non-auditory physical effects.

Disturbance Reactions

Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to pulsed sounds. With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson *et al.*, 1995): changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (*e.g.*, pinnipeds flushing into water from haul-outs or rookeries). Pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff, 2006). If a marine mammal responds to a stimulus by changing its behavior (*e.g.*, through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals, and if so potentially on the stock or species, could potentially be significant (*e.g.*, Lusseau and Bejder, 2007; Weilgart, 2007).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could potentially lead to effects on growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those thought to cause beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Longer-term habitat abandonment due to loss of desirable acoustic environment; and
- Longer-term cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.*, 2007).

Auditory Masking

Natural and artificial sounds can disrupt behavior by masking. The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. Because sound generated from in-water pile driving is mostly concentrated at low frequency ranges, it may have less effect on high frequency echolocation sounds made by porpoises. The most intense underwater sounds in the proposed action are those produced by impact pile driving. Given that the energy distribution of pile driving covers a broad frequency spectrum, sound from these sources would likely be within the audible range of marine mammals present in the project area. Impact pile driving activity is relatively short-term, with rapid pulses occurring for approximately fifteen minutes per pile. The probability for impact pile driving resulting from this proposed action masking acoustic signals important to the behavior and survival of marine mammal species is low. Vibratory pile driving is also relatively short-term, with rapid oscillations occurring for approximately one and a half hours per pile. It is possible that vibratory pile driving resulting from this proposed action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term duration and limited affected area would result in insignificant impacts from masking. Any masking event that could possibly rise to Level B harassment under the MMPA would occur concurrently within the zones of behavioral harassment already estimated for vibratory and impact pile driving, and which have already been taken into account in the exposure analysis.

Acoustic Effects, Airborne—Pinnipeds that occur near the project site could be exposed to airborne sounds associated with pile driving that have the potential to cause behavioral harassment, depending on their distance from pile driving activities. Cetaceans are not expected to be exposed to airborne sounds that would result in harassment as defined under the MMPA.

Airborne noise will primarily be an issue for pinnipeds that are swimming or hauled out near the project site within the range of noise levels elevated above the acoustic criteria in Table 4. We recognize that pinnipeds in the water could be exposed to airborne sound that may result in behavioral harassment when looking with heads above water. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled-out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon the area and move further from the source. However, these animals would previously have been 'taken' as a result of exposure to underwater sound above the behavioral harassment thresholds, which are in all cases larger than those associated with airborne sound. Thus, the behavioral harassment of these animals is already accounted for in these estimates of potential take. Multiple instances of exposure to sound above NMFS' thresholds for behavioral harassment are not believed to result in increased behavioral disturbance, in either nature or intensity of disturbance reaction. Therefore, we do not believe that authorization of incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further here.

Anticipated Effects on Habitat

The proposed activities at the Ferry Terminal would not result in permanent negative impacts to habitats used directly by marine mammals, but may have potential short-term impacts to food sources such as forage fish and may affect acoustic habitat (see masking discussion above). There are no known foraging hotspots or other ocean bottom structure of significant biological importance to marine mammals present in the marine waters of the project area. Therefore, the main impact issue associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this document. The primary potential acoustic impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory and impact pile driving and removal in the area. However, other potential impacts to the surrounding habitat from physical disturbance are also possible.

Pile Driving Effects on Potential Prey (Fish)

Construction activities would produce continuous (*i.e.*, vibratory pile driving sounds and pulsed (*i.e.* impact driving) sounds. Fish react to sounds that are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (*e.g.*, Scholik and Yan, 2001, 2002; Popper and Hastings, 2009). Sound pulses at received levels of 160 dB may cause subtle changes in fish behavior. SPLs of 180 dB may cause noticeable changes in behavior (Pearson *et al.*, 1992; Skalski *et al.*, 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality.

The most likely impact to fish from pile driving activities at the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species are expected to be minor and temporary due to the short timeframe for the project.

Pile Driving Effects on Potential Foraging Habitat

The area likely impacted by the project is relatively small compared to the available habitat in San Francisco Bay. Avoidance by potential prey (*i.e.*, fish) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the San Francisco ferry terminal and nearby vicinity.

In summary, given the short daily duration of sound associated with individual pile driving events and the relatively small areas being affected, pile driving activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

Measurements from similar pile driving events were coupled with practical spreading loss to estimate zones of influence (ZOI; see Estimated Take by Incidental Harassment); these values were used to develop mitigation measures for pile driving activities at the ferry terminal. The ZOIs effectively represent the mitigation zone that would be established around each pile to prevent Level A harassment to marine mammals, while providing estimates of the areas within which Level B harassment might occur. In addition to the specific measures described later in this section, WETA would conduct briefings between construction supervisors and crews, marine mammal monitoring team, and WETA staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

Monitoring and Shutdown for Pile Driving

The following measures would apply to WETA's mitigation through shutdown and disturbance zones:

Shutdown Zone—For all pile driving activities, WETA will establish a shutdown zone intended to contain the area in which SPLs equal or exceed the 180/190 dB rms acoustic injury criteria for cetaceans and pinnipeds, respectively. The purpose of a shutdown zone is to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing injury of marine mammals (as described previously under Potential Effects of the Specified Activity on Marine Mammals, serious injury or death are unlikely outcomes even in the absence of mitigation measures). Modeled radial distances for shutdown zones are shown in Table 6. However, a minimum shutdown zone of 10 m will be established during all pile driving activities, regardless of the estimated zone. Vibratory pile driving activities are not predicted to produce sound exceeding the 180/190-dB Level A harassment threshold, but these precautionary measures are intended to prevent the already unlikely possibility of physical interaction with construction equipment and to further reduce any possibility of acoustic injury.

Disturbance Zone—Disturbance zones are the areas in which SPLs equal or exceed 160 and 120 dB rms (for impulse and continuous sound, respectively). Disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.*, shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting instances of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see Proposed Monitoring and Reporting). Nominal radial distances for disturbance zones are shown in Table 6. Given the size of the disturbance zone for vibratory pile driving, it is impossible to guarantee that all animals would be observed or to make comprehensive observations of fine-scale behavioral reactions to sound, and only a portion of the zone (*e.g.*, what may be reasonably observed by visual observers stationed within the turning basin) would be observed.

In order to document observed instances of harassment, monitors record all marine mammal observations, regardless of location. The observer's location, as well as the location of the pile being driven, is known from a GPS. The location of the animal is estimated as a distance from the observer, which is then compared to the location from the pile. It may then be estimated whether the animal was exposed to sound levels constituting incidental harassment on the basis of predicted distances to relevant thresholds in post-processing of observational and acoustic data, and a precise accounting of observed incidences of harassment created. This information may then be used to extrapolate observed takes to reach an approximate understanding of actual total takes.

Monitoring Protocols—Monitoring would be conducted before, during, and after pile driving activities. In addition, observers shall record all instances of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven. Observations made outside the shutdown zone will not result in shutdown; that pile segment would be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted. Monitoring will take place from fifteen minutes prior to initiation through thirty minutes post-completion of pile driving activities. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes. Please see the Monitoring Plan (*www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*), developed by WETA in agreement with NMFS, for full details of the monitoring protocols.

The following additional measures apply to visual monitoring:

(1) Monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Qualified observers are typically trained biologists, with the following minimum qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;
- Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

(2) Prior to the start of pile driving activity, the shutdown zone will be monitored for fifteen minutes to ensure that it is clear of marine mammals. Pile driving will only commence once observers have declared the shutdown zone clear of marine mammals; animals will be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior will be monitored and documented. The shutdown zone may only be declared clear, and pile driving started, when the entire shutdown zone is visible (*i.e.,* when not obscured by dark, rain, fog, *etc.*). In addition, if such conditions should arise during impact pile driving that is already underway, the activity would be halted.

(3) If a marine mammal approaches or enters the shutdown zone during the course of pile driving operations, activity will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of the animal. Monitoring will be conducted throughout the time required to drive a pile.

(4) Using delay and shut-down procedures, if a species for which authorization has not been granted (including but not limited to Guadalupe fur seals and humpback whales) or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level B harassment zone, activities will shut down immediately and not restart until the animals have been confirmed to have left the area.

Soft Start

The use of a soft start procedure is believed to provide additional protection to marine mammals by warning or providing a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. This procedure is repeated two additional times. It is difficult to specify the reduction in energy for any given hammer because of variation across drivers and, for impact hammers, the actual number of strikes at reduced energy will vary because operating the hammer at less than full power results in "bouncing" of the hammer as it strikes the pile, resulting in multiple "strikes." For impact driving, we require an initial set of three strikes from the impact hammer at reduced energy, followed by a thirty-second waiting period, then two subsequent three strike sets. Soft start will be required at the beginning of each day's impact pile driving work and at any time following a cessation of impact pile driving of thirty minutes or longer.

We have carefully evaluated WETA's proposed mitigation measures and considered their effectiveness in past implementation to preliminarily determine whether they are likely to effect the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals, (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation.

Any mitigation measure(s) we prescribe should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the number (total number or number at biologically important time or location) of individual marine mammals exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).

(3) A reduction in the number (total number or number at biologically important time or location) of times any individual marine mammal would be exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).

(4) A reduction in the intensity of exposure to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing the severity of behavioral harassment only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying particular attention to the prey base, blockage or limitation of passage to or from biologically important areas, permanent destruction of habitat, or temporary disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation, an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of WETA's proposed measures, as well as any other potential measures that may be relevant to the specified activity, we have preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth "requirements pertaining to the monitoring and reporting of such taking." The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for incidental take authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Any monitoring requirement we prescribe should improve our understanding of one or more of the following:

- Occurrence of marine mammal species in action area (*e.g.*, presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) Affected species (*e.g.*, life history, dive patterns); (3) Co-occurrence of marine mammal species with the action; or (4) Biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas).
- Individual responses to acute stressors, or impacts of chronic exposures (behavioral or physiological).
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of an individual; or (2) Population, species, or stock.
- Effects on marine mammal habitat and resultant impacts to marine mammals.
- Mitigation and monitoring effectiveness.

WETA's proposed monitoring and reporting is also described in their Marine Mammal Monitoring Plan, on the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

Visual Marine Mammal Observations

WETA will collect sighting data and behavioral responses to construction for marine mammal species observed in the region of activity during the period of activity. All observers (MMOs) will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. WETA will monitor the shutdown zone and disturbance zone before, during, and after pile driving, with observers located at the best practicable vantage points. Based on our requirements, WETA would implement the following procedures for pile driving:

- MMOs would be located at the best vantage point(s) in order to properly see the entire shutdown zone and as much of the disturbance zone as possible.
- During all observation periods, observers will use binoculars and the naked eye to search continuously for marine mammals.
- If the shutdown zones are obscured by fog or poor lighting conditions, pile driving at that location will not be initiated until that zone is visible. Should such conditions arise while impact driving is underway, the activity would be halted.
- The shutdown and disturbance zones around the pile will be monitored for the presence of marine mammals before, during, and after any pile driving or removal activity.

Individuals implementing the monitoring protocol will assess its effectiveness using an adaptive approach. The monitoring biologists will use their best professional judgment throughout implementation and seek improvements to these methods when deemed appropriate. Any modifications to protocol will be coordinated between NMFS and WETA.

Data Collection

We require that observers use approved data forms. Among other pieces of information, WETA will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, WETA will attempt to distinguish between the number of individual animals taken and the number of incidences of take. We require that, at a minimum, the following information be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.*, percent cover, visibility);
- Water conditions (*e.g.*, sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel, and if possible, the correlation to SPLs;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Description of implementation of mitigation measures (*e.g.*, shutdown or delay);
- Locations of all marine mammal observations; and
- Other human activity in the area.

Reporting

A draft report would be submitted to NMFS within 90 days of the completion of marine mammal monitoring, or sixty days prior to the requested date of issuance of any future IHA for projects at the same location, whichever comes first. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days, and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within thirty days following resolution of comments on the draft report.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as: ". . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment]."

All anticipated takes would be by Level B harassment resulting from vibratory and impact pile driving and involving temporary changes in behavior. The proposed mitigation and monitoring measures are expected to minimize the possibility of injurious or lethal takes such that take by Level A harassment, serious injury, or mortality is considered discountable. However, it is unlikely that injurious or lethal takes would occur even in the absence of the planned mitigation and monitoring measures.

Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound. In practice, depending on the amount of information available to characterize daily and seasonal movement and distribution of affected marine mammals, it can be difficult to distinguish between the number of individuals harassed and the instances of harassment and, when duration of the activity is considered, it can result in a take estimate that overestimates the number of individuals harassed. In particular, for stationary activities, it is more likely that some smaller number of individuals may accrue a number of incidences of harassment per individual than for each incidence to accrue to a new individual, especially if those individuals display some degree of residency or site fidelity and the impetus to use the site (*e.g.,* because of foraging opportunities) is stronger than the deterrence presented by the harassing activity.

The area where the ferry terminal is located is not considered important habitat for marine mammals, as it is a highly industrial area with high levels of vessel traffic and background noise. While there are harbor seal haul outs within two miles of the construction activity at Yerba Buena Island, and a California sea lion haul out approximately 1.5 miles away at pier 39, behavioral disturbances that could result from anthropogenic sound associated with these activities are expected to affect only a relatively small number of individual marine mammals that may venture near the ferry terminal, although those effects could be recurring over the life of the project if the same individuals remain in the project vicinity. WETA has requested authorization for the incidental taking of small numbers of harbor seals, Northern elephant seals, Norther fur seals, California sea lions, harbor porpoise, bottlenose dolphin, and gray whales near the San Francisco Ferry Terminal that may result from pile driving during construction activities associated with the project described previously in this document.

In order to estimate the potential instances of take that may occur incidental to the specified activity, we must first estimate the extent of the sound field that may be produced by the activity and then consider in combination with information about marine mammal density or abundance in the project area. We first provide information on applicable sound thresholds for determining effects to marine mammals before describing the information used in estimating the sound fields, the available marine mammal density or abundance information, and the method of estimating potential instances of take.

Sound Thresholds

We use generic sound exposure thresholds to determine when an activity that produces sound might result in impacts to a marine mammal such that a take by harassment might occur. These thresholds (Table 4) are used to estimate when harassment may occur (*i.e.,* when an animal is exposed to levels equal to or exceeding the relevant criterion) in specific contexts; however, useful contextual information that may inform our assessment of effects is typically lacking and we consider these thresholds as step functions. NMFS is working to revise these acoustic guidelines; for more information on that process, please visit *www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 4—CURRENT ACOUSTIC EXPOSURE CRITERIA

Criterion	Definition	Threshold
Level A harassment (underwater) ...	Injury (PTS—any level above that which is known to cause TTS).	180 dB (cetaceans)/190 dB (pinnipeds) (rms).
Level B harassment (underwater) ...	Behavioral disruption	160 dB (impulsive source)/120 dB (continuous source) (rms).
Level B harassment (airborne)	Behavioral disruption	90 dB (harbor seals)/100 dB (other pinnipeds) (unweighted).

Distance to Sound Thresholds

Underwater Sound Propagation Formula—Pile driving generates underwater noise that can potentially result in disturbance to marine mammals in the project area. Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$TL = B * \log_{10}(R_1/R_2)$, where

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log[range]). A practical spreading value of 15 is often used under conditions, such as at the San Francisco Ferry Terminal, where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss (4.5 dB reduction in sound level for each doubling of distance) is assumed here.

Underwater Sound—The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. A number of studies, primarily on the west coast, have measured sound produced during underwater pile driving projects. However, these data are largely for impact driving of steel pipe piles and concrete piles as well as vibratory driving of steel pipe piles.

In order to determine reasonable SPLs and their associated effects on marine mammals that are likely to result from vibratory or impact pile driving at the ferry terminal, we considered existing measurements from similar physical environments (*e.g.* estuarine areas of soft substrate where water depths are less than 16 feet).

For 24- and 36-inch steel piles, projects include the driving of similarly sized piles at the Alameda Bay Ship and Yacht project; the Rodeo Dock Repair project; and the Amorco Wharf Repair project (Table 5). During impact pile-driving associated with these projects, measured sound levels averaged about 193 dB rms at 10m for 36-inch piles, and 190 dB rms at 10m for 24-inch piles (Caltrans, 2012). Bubble curtains will be used during the installation of these piles, which is expected to reduce noise levels by about 10 dB rms (Caltrans, 2015a). Impact driving of these piles would produce noise levels above the Level A 190 dB threshold for pinnipeds over a distance of 11 feet (4 meters) for 36-inch piles and over a distance of 7 feet (2 meters) for 24-inch piles assuming practical spreading. Impact driving of steel piles would exceed the Level A 180 dB threshold for cetaceans over a distance of 52 feet (16 meters) for 36-inch piles, and 33 feet (or 10 meters) for 24-inch piles. It is estimated that an average of four of these piles would be installed per day.

Projects conducted under similar circumstances with similar piles were reviewed to approximate the noise effects of the 14-inch wood piles. The best match for estimated noise levels is from the impact driving of timber piles at the Port of Benicia (Table 5). Noise levels produced during this installation were an average of 170 dB peak, and 158 dB rms at 33 feet (10 meters) from the pile (Caltrans, 2015a). It is estimated that an average of four of these piles would be installed per day. Based on the above sound levels, installation of the 14-inch plastic-coated wood piles would not produce rms values above the Level A or Level B thresholds.

The best fit data for 24-inch-diameter steel shell piles comes from projects completed in Shasta County, California, and the Stockton Marina, Stockton, California (Table 5). For these projects, the typical noise levels for pile-driving events were 175 dB peak, and 163 dB rms at 33 feet (10 meters) (Caltrans, 2012).

A review of available acoustic data for pile driving indicates that Test Pile Program at Naval Base Kitsap at Bangor, Washington (Illingsworth and Rodkin, 2013) provides the best match data for vibratory installation of 36-inch piles (Table 5). For 36-inch-diameter piles driven by the Navy, the average level for all pile-driving events was 159 dB rms at 33 feet (10 meters). There was a considerable range in the rms levels measured across a pile-driving event; with measured values from 147 to 169 dB rms, the higher value is used in this analysis. It is estimated that an average of four of these piles would be extracted per day of pile driving during the proposed project. Based on the above sound levels, vibratory installation of the 24- and 36-inch steel pipe piles would produce rms values above the Level A and Level B thresholds (Table 6).

It is estimated that an average of four 14-inch polyurethane-coated wood piles would be installed per day of pile driving. The best match for estimated noise levels for vibratory driving of these piles is from the Hable River in Hampshire, England, where wooden piles were installed with this method (Table 5). Rms noise levels produced during this installation were on average 142 dB rms at 33 feet (10 meters) from the pile (Nedwell et al., 2005). Based on these measure levels, vibratory installation of the 14-inch polyurethane-coated wood-fender piles would not produce noise levels above the Level A 190 or 180 dB rms thresholds; however, the 120 dB RMS Level B threshold would be exceeded over a radius of 293 meters assuming practical spreading.

Approximately 350 wood and concrete piles, 12 to 18 inches in diameter, would be removed using a vibratory pile-driver. With the vibratory hammer activated, an upward force would be applied to the pile to remove it from the sediment. On average, 12 of these piles would be extracted per work day. Extraction time needed for each pile may vary greatly, but could require approximately 400 seconds (approximately 7 minutes) from an APE 400B King Kong or similar driver. The most applicable noise values for wooden pile removal from which to base estimates for the terminal expansion project are derived from measurements taken at the Port Townsend dolphin pile removal in the State of Washington (Table 5). During vibratory pile extraction associated with this project, measured peak noise levels were approximately 164 dB at 16 m, and the rms was approximately 150 dB (WSDOT, 2011). Applicable sound values for the removal of concrete piles could not be located, but they are expected to be similar to the levels produced by wooden piles described above, because they are similarly sized, nonmetallic, and will be removed using the same methods. Based on the above noise levels, vibratory extraction of the timber and concrete piles would not produce noise levels above the Level A 190 dB or 180 dB thresholds. The radius over which the Level B 120 dB rms threshold could be exceeded is approximately 1,920 feet (585 meters) assuming practical spreading.

TABLE 5—UNDERWATER SPLS FROM MONITORED CONSTRUCTION ACTIVITIES USING VIBRATORY AND IMPACT HAMMERS

Project and location	Pile size and type	Hammer type/method	Water depth (m)	Measured SPLs
the Alameda Bay Ship and Yacht project[1]	40-in Steel pipe	Impact driving	13	195 RMS at 10 m.
the Rodeo Dock Repair project[1]	24- in steel pile	Impact driving	5	189 RMS at 10 m.
the Amorco Wharf Repair project[1]	24- in steel pile	Impact driving	>12	190 RMS at 10 m.
Port of Benicia[2]	Timber pile	n/a	11	170 dB RMS at 10 m.
Shasta County, California[1]	24-inch steel pipe piles	Vibratory driving	>2	157, 159 RMS at 10 m.
the Stockton Marina, Stockton, California[1]	20-inch- steel shell piles	Vibratory driving	3	169, 156 RMS at 10 m.
Test Pile Program at Naval Base Kitsap at Bangor, WA[3]	36-inch TTP	Vibratory driving	n/a	159 dB RMS at 10 m.
Hable River in Hampshire, England[4]	14-inch polyurethane-coated wood piles.	Vibratory driving	n/a	142 dB RMS at 10 m.
Port Townsend dolphin pile removal in the State of Washington[5].	Dolphin pile	Vibratory extraction	5	150 RMS at 16 m.

[1] Caltrans, 2012
[2] Caltrans, 2015a
[3] Illingsworth and Rodkin, 2013
[4] Nedwell, 2015
[5] WSDOT, 2011

All calculated distances to, and the total area encompassed by, the marine mammal sound thresholds are provided in Table 6. No physiological responses are expected from pile-driving operations occurring during project construction. Vibratory pile extraction and driving does not generate high-peak sound-pressure levels commonly associated with physiological damage. Impact driving can produce noise levels in excess of the Level A thresholds, but only within 50 feet (15 meters) of impact-driving of 36-inch piles. The shutdown zone will be equivalent to the area over which Level A harassment may occur, including the 180 dB re 1 µPa (cetaceans) and 190 dB re 1 µPa (pinnipeds) isopleths (Table 6); however, a minimum 10 m shutdown zone will be applied to the these zones as a precautionary measure intended to prevent the already unlikely possibility of physical interaction with construction equipment and to further reduce any possibility of acoustic injury. The disturbance zones will be equivalent to the area over which Level B harassment may occur, including160 dB re 1 µPa (impact pile driving) and 120 dB re 1 µPa (vibratory pile driving) isopleths (Table 6).

TABLE 6—DISTANCES TO RELEVANT UNDERWATER SOUND THRESHOLDS AND AREAS OF ENSONIFICATION

Project element requiring pile installation	Source levels at 10 meters	Distance to threshold (m)			Area for level B threshold (km²)
	RMS	190 dB RMS[1]	180 dB RMS[1]	160/120 dB RMS[2]	
South Basin Pile Demolition and Removal					
18-Inch Wood Piles—Vibratory Driver	150	0	< 1	1,000	1.27
18-Inch Concrete Piles—Vibratory Driver	150	0	< 1	1,000	1.27
36-Inch Steel Piles—Vibratory Driver	170	< 1	2	18,478	86.52
Embarcadero Plaza and East Bayside Promenade and Gates E, F, and G Dolphin and Guide Piles					
36-Inch Steel Piles—Vibratory Driver	169	< 1	2	18,478	86.52
36-Inch Steel Piles—Impact Driver (BCA)3	198	4	16	341	0.18
24-Inch Steel Piles—Vibratory Driver	163	0	1	7,356	38.07
24-Inch Steel Piles—Impact Driver (BCA)	193	2	10	215	0.09
Fender Piles					
14-Inch Wood Piles—Vibratory Driver	142	0	0	293	0.14
14-Inch Wood Piles—Impact Driver	158	0	0	7	0

[1] For underwater noise, the Level A harassment threshold for cetaceans is 180 dB and 190 dB for pinnipeds.

[2] For underwater noise, the Level B harassment (disturbance) threshold is 160 dB for impulsive noise and typical ambient levels (120 dB) for continuous noise.

BCA Bubble curtain attenuation will be used during impact driving of steel piles.

dB decibels.

RMS root mean square.

Marine Mammal Densities

At-sea densities for marine mammal species have not be determined in San Francisco Bay; therefore, estimates here are determined by using observational data taken during marine mammal monitoring associated with the Richmond-San Rafael Bridge retrofit project, the San Francisco-Oakland Bay Bridge (SFOBB), which has been ongoing for the past 15 years, and anecdotal observational reports from local entities. It is not currently possible to identify all observed individuals to stock.

Description of Take Calculation

All estimates are conservative and include the following assumptions:

- All pilings installed at each site would have an underwater noise disturbance equal to the piling that causes the greatest noise disturbance (*i.e.*, the piling farthest from shore) installed with the method that has the largest ZOI. The largest underwater disturbance ZOI would be produced by vibratory driving steel piles. The ZOIs for each threshold are not spherical and are truncated by land masses on either side of the channel which would dissipate sound pressure waves.
- Exposures were based on estimated total of 106 work days. Each activity ranges in amount of days needed to be completed (Table 1). Note that impact driving is likely to occur only on days when vibratory driving occurs.
- In absence of site specific underwater acoustic propagation modeling, the practical spreading loss model was used to determine the ZOI.
- All marine mammal individuals potentially available are assumed to be present within the relevant area, and thus incidentally taken;
- An individual can only be taken once during a 24-h period; and,
- Exposures to sound levels at or above the relevant thresholds equate to take, as defined by the MMPA.

The estimation of marine mammal takes typically uses the following calculation:

For harbor seals and California sea lions: Level B exposure estimate = D (density) * Area of ensonification) * Number of days of noise generating activities.

For all other marine mammal species: Level B exposure estimate = N (number of animals) in the area * Number of days of noise generating activities.

To account for the increase in California sea lion density due to El Niño, the daily take estimated from the observed density has been increased by a factor of 10 for each day that pile driving occurs.

There are a number of reasons why estimates of potential instances of take may be overestimates of the number of individuals taken, assuming that available density or abundance estimates and estimated ZOI areas are accurate. We assume, in the absence of information supporting a more refined conclusion, that the output of the calculation represents the number of individuals that may be taken by the specified activity. In fact, in the context of stationary activities such as pile driving and in areas where resident animals may be present, this number represents the number of instances of take that may accrue to a smaller number of individuals, with some number of animals being exposed more than once per individual. While pile driving can occur any day throughout the in-water work window, and the analysis is conducted on a per day basis, only a fraction of that time (typically a matter of hours on any given day) is actually spent pile driving. The potential effectiveness of mitigation measures in reducing the number of takes is typically not quantified in the take estimation process. For these reasons, these take estimates may be conservative, especially if each take is considered a separate individual animal, and especially for pinnipeds.

The quantitative exercise described above indicates that no instances of Level A harassment would be expected, independent of the implementation of required mitigation measures. See Table 7 for total estimated instances of take.

TABLE 7—CALCULATIONS FOR INCIDENTAL TAKE ESTIMATION

Pile type	Pile-driver type	Number of driving days	Estimated take by level B harassment (take per day/total)						
			Harbor seal	CA Sea lion [1]	Northern elephant seal [2]	Harbor porpoise [2]	Gray Whale [2]	Northern fur seal [2]	Bottlenose dolphin [2]
2016 Work Season									
Wood/concrete pile removal	Vibratory	30	1/30	10/300	NA	NA	NA	NA	NA
36-inch dolphin pile removal	Vibratory	1	27/26	110/110	NA	NA	NA	NA	NA
Embarcadero Plaza	Vibratory [3]	65	26/1,690	110/7,150	NA	NA	NA	NA	NA
36-inch steel piles OR									
24-inch steel piles	Vibratory [3]	65	12/780	50/3,250	NA	NA	NA	NA	NA
14-inch wood pile	Vibratory [3]	10	1/10	10/100	NA	NA	NA	NA	NA
Project Total (2016) [3]		106	1,756	7,660	14	6	2	10	30
2017 Work Season									
Gate F and G Guide Piles (36-inch steel).	Vibratory [3]	12	1/12	4/48	NA	NA	NA	NA	NA
Gate E Guide Pile Removal (36-inch steel).	Vibratory	6	1/6	4/24	NA	NA	NA	NA	NA
Gate E Guide Pile Installation (36-inch steel).	Vibratory [3]	6	1/6	4/24	NA	NA	NA	NA	NA
Project Total (2017)		24	648 [4]	2,640 [4]	4	6	2	10	30

[1] 1 To account for potential El Niño conditions, take calculated from at-sea densities for California sea lion has been increased by a factor of 10.
[2] Take is not calculated by activity type for these species with a low potential to occur, only a yearly total is given.
[2] Piles of this type may also be installed with an impact hammer, which would reduce the estimated take.
[3] This total assumes that 36-inch steel piles are used for the Embarcadero Plaza.

Description of Marine Mammals in the Area of the Specified Activity

Harbor Seals

Monitoring of marine mammals in the vicinity of the SFOBB has been ongoing for 15 years; from those data, Caltrans has produced at-sea density estimates for Pacific harbor seal of 0.78 animals per square mile (0.3 animals per square kilometer) for the summer season (Caltrans, 2015b). Using this density, the potential average daily take for the areas over which the Level B harassment thresholds may be exceeded are estimated in Table 8.

TABLE 8—TAKE CALCULATION FOR HARBOR SEAL

Activity	Pile type	Density	Area (km²)	Take estimate
Vibratory driving	24-in steel pile	0.78 (0.3 animal/km²)	38.09	780
Vibratory driving and extraction	36-in steel pile	0.78 (0.3 animal/km²)	86.52	1,690; 26
Vibratory extraction	Wood and concrete piles	0.78 (0.3 animal/km²)	1.27	30
Vibratory driving	Wood piles	0.78 (0.3 animal/km²)	0.14	10

A total of 1,756 harbor seal takes are estimated for 2016 (Table 7).

California sea lion

Monitoring of marine mammals in the vicinity of the SFOBB has been ongoing for 15 years; from those data, Caltrans has produced at-sea density estimates for California sea lion of 0.31 animals per square mile (0.12 animal per square kilometer) for the summer season (Caltrans, 2015b). Using this density, the potential average daily take for the areas over which the Level B harassment thresholds may be exceeded (Table 10) is estimated in Table 9.

TABLE 9—TAKE CALCULATION FOR CALIFORNIA SEA LION

Activity	Pile type	Density	Area (km²)	Take estimate
Vibratory driving and extraction	24-in steel pile	0.31 (0.12 animal/km²)	38.09	*3,250

TABLE 9—TAKE CALCULATION FOR CALIFORNIA SEA LION—Continued

Activity	Pile type	Density	Area (km^2)	Take estimate
Vibratory driving and extraction	36-in steel pile	0.31 (0.12 animal/km^2)	86.52	*7,150; 110
Vibratory extraction	Wood and concrete piles	0.31 (0.12 animal/km^2)	1.27	*300
Vibratory driving	Wood piles	0.31 (0.12 animal/km^2)	0.14	*100

* All California sea lion estimates were multiplied by 10 to account for the increased occurrence of this species due to El Niño.

All California sea lion estimates were multiplied by 10 to account for the increased occurrence of this species due to El Niño. A total of 7,660 California sea lion takes is estimated for 2016 (Table 7).

Northern Elephant Seal

Monitoring of marine mammals in the vicinity of the SFOBB has been ongoing for 15 years; from those data, Caltrans has produced an estimated at-sea density for northern elephant seal of 0.16 animal per square mile (0.03 animal per square kilometer) (Caltrans, 2015b). Most sightings of northern elephant seal in San Francisco Bay occur in spring or early summer, and are less likely to occur during the periods of in-water work for this project (June/July through November). As a result, densities during pile driving for the proposed action would be much lower. Therefore, we estimate that it is possible that a lone northern elephant seal may enter the Level B harassment area once per week during pile driving, for a total of 14 takes in 2016 (Table 7).

Northern Fur Seal

During the breeding season, the majority of the worldwide population is found on the Pribilof Islands in the southern Bering Sea, with the remaining animals spread throughout the North Pacific Ocean. On the coast of California, small breeding colonies are present at San Miguel Island off southern California, and the Farallon Islands off central California (Caretta et al 2014). Northern fur seal are a pelagic species and are rarely seen near the shore away from breeding areas. Juveniles of this species occasionally strand in San Francisco Bay, particularly during El Niño events, for example, during the 2006 El Niño event, 33 fur seals were admitted to the Marine Mammal Center (TMMC, 2016). Some of these stranded animals were collected from shorelines in San Francisco Bay. Due to the recent El Niño event, Northern fur seals are being observed in San Francisco bay more frequently, as well as strandings all along the California coast and inside San Francisco Bay; a trend that is expected to continue this summer through winter (TMMC, personal communication). Because sightings are normally rare; instances recently have been observed, but are not common, and based on estimates from local observations (TMMC, personal communication), it is estimated that ten Norther fur seals will be taken in 2016 (Table 7).

Harbor Porpoise

In the last six decades, harbor porpoises were observed outside of San Francisco Bay. The few harbor porpoises that entered were not sighted past central Bay close to the Golden Gate Bridge. In recent years, however, there have been increasingly common observations of harbor porpoises in central, north, and south San Francisco Bay. Porpoise activity inside San Francisco Bay is thought to be related to foraging and mating behaviors (Keener, 2011; Duffy, 2015). According to observations by the Golden Gate Cetacean Research team as part of their multi-year assessment, over 100 porpoises may be seen at one time entering San Francisco Bay; and over 600 individual animals are documented in a photo-ID database. However, sightings are concentrated in the vicinity of the Golden Gate Bridge and Angel Island, north of the project area, with lesser numbers sighted south of Alcatraz and west of Treasure Island (Keener 2011). Harbor porpoise generally travel individually or in small groups of two or three (Sekiguchi, 1995).

Monitoring of marine mammals in the vicinity of the SFOBB has been ongoing for 15 years; from those data, Caltrans has produced an estimated at-sea density for harbor porpoise of 0.01 animal per square mile (0.004 animal per square kilometer) (Caltrans, 2015b). However, this estimate would be an overestimate of what would actually be seen in the project area. In order to estimate a more realistic take number, we assume it is possible that a small group of individuals (three harbor porpoises) may enter the Level B harassment area on as many as two days of pile driving, for a total of six harbor porpoise takes per year (Table 7).

Gray Whale

Historically, gray whales were not common in San Francisco Bay. The Oceanic Society has tracked gray whale sightings since they began returning to San Francisco Bay regularly in the late 1990s. The Oceanic Society data show that all age classes of gray whales are entering San Francisco Bay, and that they enter as singles or in groups of up to five individuals. However, the data do not distinguish between sightings of gray whales and number of individual whales (Winning, 2008). Caltrans Richmond-San Rafael Bridge project monitors recorded 12 living and two dead gray whales in the surveys performed in 2012. All sightings were in either the central or north Bay; and all but two sightings occurred during the months of April and May. One gray whale was sighted in June, and one in October (the specific years were unreported). It is estimated that two to six gray whales enter San Francisco Bay in any given year. Because construction activities are only occurring during a maximum of 106 days in 2016, it is estimated that two gray whales may potentially enter the area during the construction period, for a total of 2 gray whale takes in 2016 (Table 7).

Bottlenose Dolphin

Since the 1982–83 El Niño, which increased water temperatures off California, bottlenose dolphins have been consistently sighted along the central California coast (Caretta et al 2008). The northern limit of their regular range is currently the Pacific coast off San Francisco and Marin County, and they occasionally enter San Francisco Bay, sometimes foraging for fish in Fort Point Cove, just east of the Golden Gate Bridge. In the summer of 2015, a lone bottlenose dolphin was seen swimming in the Oyster Point area of South San Francisco (GGCR, 2016). Members of this stock are transient and make movements up and down the coast, and into some estuaries, throughout the year. Due to the recent El Niño event, bottlenose dolphins are being observed in San Francisco bay more frequently (TMMC, personal communication). Groups with an average group size of five animals enter the bay and occur near Yerba Buena Island once per week for a two week stint and then depart the bay (TMMC, personal communication). Assuming groups of five individuals may enter San Francisco Bay approximately three times during the construction activities, we estimate 30 takes of bottlenose dolphins for 2016 (Table 7).

Analyses and Preliminary Determinations

Negligible Impact Analysis

NMFS has defined "negligible impact" in 50 CFR 216.103 as ". . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival." A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" through behavioral harassment, we consider other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

Pile driving activities associated with the ferry terminal construction project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only, from underwater sounds generated from pile driving. Potential takes could occur if individuals of these species are present in the ensonified zone when pile driving occurs.

No injury, serious injury, or mortality is anticipated given the nature of the activities and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. Specifically, vibratory hammers will be the primary method of installation (impact driving is included only as a contingency), and this activity does not have the potential to cause injury to marine mammals due to the relatively low source levels produced (less than 180 dB) and the lack of potentially injurious source characteristics. Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. If impact driving is necessary, implementation of soft start and shutdown zones significantly reduces any possibility of injury. Given sufficient "notice" through use of soft start (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to it becoming potentially injurious. WETA will also employ the use of 12-inch-thick wood cushion block on impact hammers, and use a bubble curtain as sound attenuation devices. Environmental conditions in San Francisco Ferry Terminal mean that marine mammal detection ability by trained observers is high, enabling a high rate of success in implementation of shutdowns to avoid injury.

WETA's proposed activities are localized and of relatively short duration (a maximum of 106 days for pile driving in the first year). The entire project area is limited to the San Francisco ferry terminal area and its immediate surroundings. These localized and short-term noise exposures may cause short-term behavioral modifications in harbor seals, Northern fur seals, Northern elephant seals, California sea lions, harbor porpoises, bottlenose dolphins, and gray whales. Moreover, the proposed mitigation and monitoring measures are expected to reduce the likelihood of injury and behavior exposures. Additionally, no important feeding and/or reproductive areas for marine mammals are known to be within the ensonified area during the construction time frame.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat. The project activities would not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; Lerma, 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior due to the small ensonification area and relatively short duration of the project. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and thus would not result in any adverse impact to the stock as a whole.

In summary, this negligible impact analysis is founded on the following factors: (1) the possibility of injury, serious injury, or mortality may reasonably be considered discountable; (2) the anticipated instances of Level B harassment consist of, at worst, temporary modifications in behavior; (3) the presumed efficacy of the proposed mitigation measures in reducing the effects of the specified activity to the level of least practicable impact, and (4) the lack of important areas. In addition, these stocks are not listed under the ESA. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will have only short-term effects on individuals. The specified activity is not reasonably expected to and is not reasonably likely to adversely affect the marine mammal species or stocks through effects on annual rates of recruitment or survival, and will therefore not result in population-level impacts.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, we preliminarily find that the total marine mammal take from WETA's ferry terminal construction activities will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers Analysis

Table 10 details the number of instances that animals could be exposed to received noise levels that could cause Level B behavioral harassment for the proposed work at the ferry terminal project site relative to the total stock abundance. The numbers of animals authorized to be taken for all species would be considered small relative to the relevant stocks or populations even if each estimated instance of take occurred to a new individual—an extremely unlikely scenario. The total percent of the population (if each instance was a separate individual) for which take is requested is approximately nine percent for bottlenose dolphins, approximately six percent for harbor seals, less than three percent for California sea lions, and less than one percent for all other species (Table 10). For pinnipeds, especially harbor seals occurring in the vicinity of the ferry terminal, there will almost certainly be some overlap in individuals present day-to-day, and the number of individuals taken is expected to be notably lower. We preliminarily find that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

TABLE 10—ESTIMATED NUMBERS AND PERCENTAGE OF STOCK THAT MAY BE EXPOSED TO LEVEL B HARASSMENT

Species	Proposed authorized takes	Stock(s) abundance estimate [1]	Percentage of total stock (%)
Harbor Seal (*Phoca vitulina*) *California stock*	1,756	30,968	5.7
California sea lion (*Zalophus californianus*) *U.S. Stock*	7,660	296,750	2.6
Northern elephant seal (*Mirounga anustirostris*) *California breeding stock*	14	179,000	.0008
Northern fur seal (*Callorhinus ursinus*) *California stock*	10	14,050	.007
Harbor Porpoise (*Phocoena phocoena*) *San Francisco-Russian River Stock*	6	9,886	.006
Gray whale (*Eschrichtius robustus*) *Eastern North Pacific stock*	2	20,990	.001
Bottlenose dolphin (*Tursiops truncatus*) *California coastal stock*	30	323	9.3

[1] All stock abundance estimates presented here are from the draft 2015 Pacific Stock Assessment Report.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, we have determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

No marine mammal species listed under the ESA are expected to be affected by these activities. Therefore, we have determined that section 7 consultation under the ESA is not required.

National Environmental Policy Act (NEPA)

NMFS is currently conducting an analysis, pursuant to National Environmental Policy Act (NEPA), to determine whether or not this proposed activity may have a significant effect on the human environment. This analysis will be completed prior to the issuance or denial of this proposed IHA.

Proposed Authorization

As a result of these preliminary determinations, we propose to authorize the take of marine mammals incidental to WETA's Downtown San Francisco Ferry Terminal Expansion Project, South Basin Improvements Project, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. Specific language from the proposed IHA is provided next.

This section contains a draft of the IHA. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This Incidental Harassment Authorization (IHA) is valid for one year from the date of issuance.

2. This IHA is valid only for pile driving activities associated with the Downtown San Francisco Ferry Terminal Expansion Project, South Basin Improvements Project in San Francisco Bay, CA.

3. General Conditions.

(a) A copy of this IHA must be in the possession of WETA, its designees, and work crew personnel operating under the authority of this IHA.

(b) The species authorized for taking are summarized in Table 1.

(c) The taking, by Level B harassment only, is limited to the species listed in condition 3(b). See Table 1 for numbers of take authorized.

TABLE 1—AUTHORIZED TAKE NUMBERS

Species	Authorized take	
	Level A	Level B
Harbor seal	0	1,756
California sea lion	0	7,660
Northern elephant seal	0	14
Northern fur seal	0	10
Harbor porpoise	0	6
Gray whale	0	2
Bottlenose dolphin	0	30
Total	0	9,478

(d) The taking by injury (Level A harassment), serious injury, or death of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

(e) WETA shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, and WETA staff prior to the start of all pile driving activity, and when new personnel join the work.

4. Mitigation Measures.

The holder of this Authorization is required to implement the following mitigation measures:

(a) For all pile driving, WETA shall implement a minimum shutdown zone of 10 m radius around the pile. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease.

(b) For in-water heavy machinery work other than pile driving (*e.g.*, standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 10 meters, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions.

(c) WETA shall establish monitoring locations as described below. Please also refer to the Marine Mammal Monitoring Plan (see *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm).*

i. For all pile driving activities, a minimum of two observers shall be deployed, with one positioned to achieve optimal monitoring of the shutdown zone and the second positioned to achieve optimal monitoring of surrounding waters of the ferry terminal and portions of San Francisco Bay. If practicable, the second observer should be deployed to an elevated position with clear sight lines to the ferry terminal.

ii. These observers shall record all observations of marine mammals, regardless of distance from the pile being driven, as well as behavior and potential behavioral reactions of the animals. Observations within the ferry terminal shall be distinguished from those in the nearshore waters of San Francisco Bay.

iii. All observers shall be equipped for communication of marine mammal observations amongst themselves and to other relevant personnel (*e.g.*, those necessary to effect activity delay or shutdown).

(c) Monitoring shall take place from fifteen minutes prior to initiation of pile driving activity through thirty minutes post-completion of pile driving activity. In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, animals shall be allowed to remain in the shutdown zone (*i.e.*, must leave of their own volition) and their behavior shall be monitored and documented. Monitoring shall occur throughout the time required to drive a pile. The shutdown zone must be determined to be clear during periods of good visibility (*i.e.*, the entire shutdown zone and surrounding waters must be visible to the naked eye).

(d) If a marine mammal approaches or enters the shutdown zone, all pile driving activities at that location shall be halted. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of the animal.

(e) Using delay and shut-down procedures, if a species for which authorization has not been granted (including but not limited to Guadalupe fur seals and humpback whales) or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level B harassment zone, activities will shut down immediately and not restart until the animals have been confirmed to have left the area.

(f) Monitoring shall be conducted by qualified observers, as described in the Monitoring Plan. Trained observers shall be placed from the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. Observer training must be provided prior to project start and in accordance with the monitoring plan, and shall include instruction on species identification (sufficient to distinguish the species listed in 3(b)), description and categorization of observed behaviors and interpretation of behaviors that may be construed as being reactions to the specified activity, proper completion of data forms, and other basic components of biological monitoring, including tracking of observed animals or groups of animals such that repeat sound exposures may be attributed to individuals (to the extent possible).

(g) WETA shall use soft start techniques recommended by NMFS for impact pile driving. Soft start requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. Soft start shall be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

(h) Sound attenuation devices—Approved sound attenuation devices (*e.g.* bubble curtain, pile cushion) shall be used during impact pile driving operations. WETA shall implement the necessary contractual requirements to ensure that such devices are capable of achieving optimal performance, and that deployment of the device is implemented properly such that no reduction in performance may be attributable to faulty deployment.

(i) Pile driving shall only be conducted during daylight hours.

5. Monitoring.

The holder of this Authorization is required to conduct marine mammal monitoring during pile driving activity. Marine mammal monitoring and reporting shall be conducted in accordance with the Monitoring Plan.

(a) WETA shall collect sighting data and behavioral responses to pile driving for marine mammal species observed in the region of activity during the period of activity. All observers shall be trained in marine mammal identification and behaviors, and shall have no other construction-related tasks while conducting monitoring.

(b) For all marine mammal monitoring, the information shall be recorded as described in the Monitoring Plan.

6. Reporting.

The holder of this Authorization is required to:

(a) Submit a draft report on all monitoring conducted under the IHA within ninety days of the completion of marine mammal monitoring, or sixty days prior to the issuance of any subsequent IHA for projects at the San Francisco Ferry Terminal, whichever comes first. A final report shall be prepared and submitted within thirty days following resolution of comments on the draft report from NMFS. This report must contain the informational elements described in the Monitoring Plan, at minimum (see *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*), and shall also include:

i. Detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any.

ii. Description of attempts to distinguish between the number of individual animals taken and the number of incidents of take, such as ability to track groups or individuals.

iii. An estimated total take estimate extrapolated from the number of marine mammals observed during the course of construction activities, if necessary.

(b) Reporting injured or dead marine mammals:

i. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, WETA shall immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the Southwest Regional Stranding Coordinator, NMFS. The report must include the following information:

A. Time and date of the incident;

B. Description of the incident;

C. Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, and visibility);

D. Description of all marine mammal observations in the 24 hours preceding the incident;

E. Species identification or description of the animal(s) involved;

F. Fate of the animal(s); and

G. Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with WETA to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. WETA may not resume their activities until notified by NMFS.

ii. In the event that WETA discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), WETA shall immediately report the incident to the Office of Protected Resources, NMFS, and the Southwest Regional Stranding Coordinator, NMFS.

The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with WETA to determine whether additional mitigation measures or modifications to the activities are appropriate.

iii. In the event that discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), WETA shall report the incident to the Office of Protected Resources, NMFS, and the Southwest Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. WETA shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

We request comment on our analyses, the draft authorization, and any other aspect of this Notice of Proposed IHAs for WETA's ferry terminal construction activities. Please include with your comments any supporting data or literature citations to help inform our final decision on WETA's request for an MMPA authorization.

Dated: May 19, 2016.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–12299 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title:

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Request: Emergency request for a new information collection.

Number of Respondents: 200.

Average Hours per Response: 45 minutes.

Burden Hours: 150.

Needs and Uses: The purpose of this collection of information is to make available to the scientific community remainders of physical samples that are being stored pending the lifting of preservation requirements (expected to occur in early June 2016) associated with recently settled legal claims for natural resource damages involving the Deepwater Horizon (DWH) oil spill. These samples include oil, sediment, biological tissue, and other materials collected for various investigational purposes. The majority of the samples belong to the National Oceanic and Atmospheric Administration (NOAA); a small portion of the collection belongs to the U.S. Fish and Wildlife Service (USFWS). Prior to sample disposal, NOAA and USFWS are offering these samples and/or remainders of samples to researchers and/or other interested members of the scientific community. The information collected will allow NOAA/USFWS to process requests for samples received by both agencies.

Emergency Paperwork Reduction Act review and authorization of the information request will facilitate an expeditious sample distribution and disposal process, more quickly reducing sample storage costs which currently total approximately $350,000 per month.

Affected Public: Not-for-profit institutions; business or other for-profit organizations.

Frequency: One time.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 5 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: May 20, 2016.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2016–12378 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE631

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration. The exempted fishing permit would allow a commercial fishing vessel to fish outside of the limited access scallop regulations in support of gear research designed to reduce the amount of small, unexploitable scallops caught and create better dredge selectivity, as well as reduce finfish bycatch.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

DATES: Comments must be received on or before June 9, 2016.

ADDRESSES: You may submit written comments by any of the following methods:

- *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line "Box Dredge EFP."
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Box Dredge EFP."
- *Fax:* (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, Fisheries Management Specialist, 978–282–8456.

SUPPLEMENTARY INFORMATION: A scallop captain has submitted an exempted fishing permit (EFP) application for a project that would test a scallop box-shaped ring bag designed to reduce the amount of small scallops and finfish bycatch caught in the dredge, resulting in better gear selectivity and reducing high grading. This is a proof of concept project which aims to determine whether the gear configuration can be effectively fished, and whether preliminary information supports the dredge's expected better size selectivity and reduction of bycatch. The applicant submitted a complete application for an EFP on March 22, 2016, to enable the use of the modified gear during Mid-Atlantic Access Area fishing trips. The EFP would authorize exemptions for one commercial vessel from the scallop dredge gear restriction of no more than seven rows in the apron at 50 CFR 648.51(b)(4)(iv); the scallop observer program requirement at § 648.11(g); and would temporarily exempt the participating vessel from possession limits and minimum size requirements specified in 50 CFR part 648, subsections B and D through O, for sampling purposes only. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited, including landing fish in excess of a possession limit or below the minimum size.

One vessel would conduct scallop dredging in May 2016-October 2016 on three trips in the Mid-Atlantic Access Area. All trips would fish two 13-foot (3.96-m) Turtle Deflector Dredges, towed for an average duration of 50 minutes. Each trip would complete approximately 150 tows for an overall total of 450 tows. One dredge would be rigged with an industry standard bag comprised of 7 rows of rings from the twine top to the terminus, while the other would be rigged with an experimental "box bag" configuration. The experimental bag will consist of two 3-ring wide side panels and one 3-ring wide rear panel all connecting the topside of the bag to the underside creating a box-like bag. Both dredges would use 4-inch (10.16-cm) rings, 10-inch (25.40-cm) twine top, and turtle chain mats.

For all tows, the scallop catch would be kept separated by dredge and placed into baskets, counted and weighed using a certified electronic scale. The captain and crew would then count the number of scallops contained in a minimum of one basket from each dredge, enabling them to measure the size selectivity of each dredge. Generally, the greater the number of scallops in a basket, within a reasonable range allowing for variance in how the crew fill baskets, the smaller the scallops are in size. This is a quick and simple method to gauge whether or not the experimental dredge is achieving larger size selectivity without having shell height measuring tools. If this proof of concept study preliminarily shows positive results and the applicant would like to continue research with the experimental dredge, we would require a more scientifically sound method to measure scallop shell height. Crew would sort the finfish catch by species and then count and weigh them. Depending on the volume of scallops and finfish captured, the catch would be subsampled if necessary. Finfish catch not retained for sale would not be kept on deck for longer than needed to conduct sampling. Exemption from possession limit and minimum sizes would support catch sampling activities, and ensure the vessel is not in conflict with possession regulations while collecting catch data. All catch above a possession limit or below a minimum size would be discarded as soon as practicable following data collection. The vessel would be exempt from the sea scallop observer program requirements because the gear used is not typical of gear used during normal commercial fishing operations. All trips would otherwise be conducted in a manner consistent with normal commercial fishing conditions, and catch consistent with the Limited Access possession limits for the Mid-Atlantic Access Area would be retained for sale.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 19, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–12243 Filed 5–24–16; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Renewal of the Market Risk Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (Commission) is publishing this notice to announce the renewal of the Market Risk Advisory Committee (MRAC). The Commission has determined that the renewal of the MRAC is necessary and in the public's interest, and the Commission has consulted with the General Services Administration's Committee Management Secretariat regarding the MRAC's renewal.

FOR FURTHER INFORMATION CONTACT: Petal Walker, MRAC Designated Federal Officer, at 202–418–5794 or *pwalker@cftc.gov.*

SUPPLEMENTARY INFORMATION: The MRAC's objectives and scope of activities are to conduct public meetings and submit reports and recommendations to the Commission on: (1) Systemic issues that impact the stability of the derivatives markets and other related financial markets; and (2) the impact and implications of the evolving market structure of the derivatives markets and other related financial markets. The MRAC will also advise and make recommendations on monitoring and managing systemic risk and on ensuring the integrity of the derivatives markets and other related financial markets to support the Commission's mission. The MRAC will operate for two years from the date of renewal unless the Commission directs that the MRAC terminate on an earlier date. A copy of the MRAC renewal charter has been filed with the Commission; the Senate Committee on Agriculture, Nutrition and Forestry; the House Committee on Agriculture; the Library of Congress; and the General Services Administration's Committee Management Secretariat. A copy of the renewal charter will be posted on the Commission's Web site at *www.cftc.gov.*

Dated: May 20, 2016.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2016–12316 Filed 5–24–16; 8:45 am]

BILLING CODE 6351–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Consumer Advisory Board Meeting

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the announcement of a public meeting of the Consumer Advisory Board (CAB or Board) of the Bureau of Consumer Financial Protection (Bureau). The notice also describes the functions of the Board. Notice of the meeting is permitted by section 9 of the CAB Charter and is intended to notify the public of this meeting. Specifically, Section 9(d) of the CAB Charter states:

(1) Each meeting of the Board shall be open to public observation, to the extent that a facility is available to accommodate the public, unless the Bureau, in accordance with paragraph (4) of this section, determines that the meeting shall be closed. The Bureau also will make reasonable efforts to make the meetings available to the public through live web streaming. (2) Notice of the time, place and purpose of each meeting, as well as a summary of the proposed agenda, shall be published in the **Federal Register** not more than 45 or less than 15 days prior to the scheduled meeting date. Shorter notice may be given when the Bureau determines that the Board's business so requires; in such event, the public will be given notice at the earliest practicable time. (3) Minutes of meetings, records, reports, studies, and agenda of the Board shall be posted on the Bureau's Web site (*www.consumerfinance.gov*). (4) The Bureau may close to the public a portion of any meeting, for confidential discussion. If the Bureau closes a meeting or any portion of a meeting, the Bureau will issue, at least annually, a summary of the Board's activities during such closed meetings or portions of meetings.

DATES: The meeting date is Thursday, June 9, 2016, 10:30 a.m. to 4:30 p.m. central standard time.

ADDRESSES: The meeting location is the Statehouse Convention Center, Ballroom D, 101 E Markham Street, Little Rock, AR 72201.

FOR FURTHER INFORMATION CONTACT: Crystal Dully, Outreach and Engagement Associate, 202–435–9588, *CFPB_CABandCouncilsEvents@cfpb.gov,* Consumer Advisory Board and Councils Office, External Affairs, 1275 First Street NE., Washington, DC 20002.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1014(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (*http://files.consumerfinance.gov/f/201501_cfpb_charter-of-the-consumer-advisory-board.pdf*) (Dodd-Frank Act) provides:

> The Director shall establish a Consumer Advisory Board to advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws, and to provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information.

(a) The purpose of the Board is outlined in Section 1014(a) of the Dodd-Frank Act (*http://files.consumerfinance.gov/f/201501_cfpb_charter-of-the-consumer-advisory-board.pdf*), which states that the Board shall "advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws" and "provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information." (b) To carry out the Board's purpose, the scope of its activities shall include providing information, analysis, and recommendations to the Bureau. The Board will generally serve as a vehicle for market intelligence and expertise for the Bureau. Its objectives will include identifying and assessing the impact on consumers and other market participants of new, emerging, and changing products, practices, or services. (c) The Board will also be available to advise and consult with the Director and the Bureau on other matters related to the Bureau's functions under the Dodd-Frank Act.

II. Agenda

The Consumer Advisory Board will discuss an auto lending education initiative, trends and themes, and payday lending.

Persons who need a reasonable accommodation to participate should contact *CFPB_504Request@cfpb.gov,* 202–435–9EEO, 1–855–233–0362, or 202–435–9742 (TTY) at least ten business days prior to the meeting or event to request assistance. The request must identify the date, time, location, and title of the meeting or event, the nature of the assistance requested, and contact information for the requester. CFPB will strive to provide, but cannot guarantee that accommodation will be provided for late requests.

Individuals who wish to attend the Consumer Advisory Board meeting must RSVP to *cfpb_cabandcouncilsevents@cfpb.gov* by noon, June 8, 2016. Members of the public must RSVP by the due date and must include "CAB" in the subject line of the RSVP.

III. Availability

The Board's agenda will be made available to the public on May 25, 2016, via *www.consumerfinance.gov.* Individuals should express in their RSVP if they require a paper copy of the agenda.

A recording and transcript of this meeting will be available after the meeting on the CFPB's Web site *www.consumerfinance.gov.*

Dated: May 19, 2016.

Christopher D'Angelo,

Chief of Staff, Bureau of Consumer Financial Protection.

[FR Doc. 2016–12344 Filed 5–24–16; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board Request for Information on Robotic and Autonomous Systems-of-Systems Technology Initiatives; Extension of Comment Period

AGENCY: Department of the Army, DoD.

ACTION: Notice; extension of comment period.

SUMMARY: The comment period for the Army Science Board Request for Information on Robotic and Autonomous Systems-of-Systems (RAS) Technology Initiatives notice published in the **Federal Register** on Monday, May 16, 2016 (81 FR 30264), required comment packages be submitted by Friday, May 27, 2016. The comment period has been extended to Tuesday, June 14, 2016.

FOR FURTHER INFORMATION CONTACT: LTC Stephen K. Barker at *stephen.k.barker.mil@mail.mil.*

SUPPLEMENTARY INFORMATION: None.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2016–12285 Filed 5–24–16; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Termination of the National Commission on the Future of the Army

AGENCY: Department of Defense.

ACTION: Termination of Federal Advisory Committee.

SUMMARY: The Department of Defense is publishing this notice to announce that it is terminating the National Commission on the Future of the Army, effective April 28, 2016.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: Pursuant to Section 17062 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Pub. L. 113–291), as amended by Section 1061 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114–92), the Department of Defense terminated the National Commission on the Future of the Army on April 28, 2016.

Dated: May 19, 2016.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2016–12275 Filed 5–24–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Inland Waterways Users Board Meeting Notice

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the U.S. Army Corps of Engineers, Inland Waterways Users Board (Board). This meeting is open to the public. For additional information about the Board, please visit the committee's Web site at *http://www.iwr.usace.army.mil/Missions/Navigation/InlandWaterwaysUsersBoard.aspx.*

DATES: The Army Corps of Engineers, Inland Waterways Users Board will meet from 9:00 a.m. to 1:00 p.m. on July 1, 2016. Public registration will begin at 8:15 a.m.

ADDRESSES: The Board meeting will be conducted at the Walker Hall Events Center, 229 Madison Street, Paducah, KY 42001, 270–575–4568.

FOR FURTHER INFORMATION CONTACT: Mr. Mark R. Pointon, the Designated Federal Officer (DFO) for the committee, in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GM, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–6438; and by email at *Mark.Pointon@usace.army.mil.* Alternatively, contact Mr. Kenneth E. Lichtman, the Alternate Designated Federal Officer (ADFO), in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GW, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–8083; and by email at *Kenneth.E.Lichtman@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The committee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: The Board is chartered to provide independent advice and recommendations to the Secretary of the Army on construction and rehabilitation project investments on the commercial navigation features of the inland waterways system of the United States. At this meeting, the Board will receive briefings and presentations regarding the investments, projects and status of the inland waterways system of the United States and conduct discussions and deliberations on those matters. The Board is interested in written and verbal comments from the public relevant to these purposes.

Proposed Agenda: At this meeting the agenda will include the status of funding for inland navigation projects and studies budgeted in FY 2017 and the Benefit/Cost Ratio (BCRs) data for inland navigation construction projects, the status of the Inland Waterways Trust Fund, the status of the Olmsted Locks and Dam Project, the Locks and Dams 2, 3, and 4 on the Monongahela River Project and the Kentucky Lock Addition Project, and a proposed method of displaying navigation stoppages to maritime interests.

Availability of Materials for the Meeting. A copy of the agenda or any updates to the agenda for the July 1, 2016 meeting. The final version will be provided at the meeting. All materials will be posted to the Web site after the meeting.

Public Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.1 65, and subject to the availability of space, this meeting is open to the public. Registration of members of the public who wish to attend the meeting will begin at 8:15 a.m. on the day of the meeting. Seating is limited and is on a first-to-arrive basis. Attendees will be asked to provide their name, title, affiliation, and contact information to include email address and daytime telephone number at registration. Any interested person may attend the meeting, file written comments or statements with the committee, or make verbal comments from the floor during the public meeting, at the times, and in the manner, permitted by the committee, as set forth below.

Special Accommodations: The meeting venue is fully handicap accessible, with wheelchair access. Individuals requiring special accommodations to access the public meeting or seeking additional information about public access procedures, should contact Mr. Pointon, the committee DFO, or Mr. Lichtman, the ADFO, at the email addresses or telephone numbers listed in the **FOR FURTHER INFORMATION CONTACT** section, at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Board about its mission and/or the topics to be addressed in this public meeting. Written comments or statements should be submitted to Mr. Pointon, the committee DFO, or Mr. Lichtman, the committee ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section in the following formats: Adobe Acrobat or Microsoft Word. The comment or statement must include the author's name, title, affiliation, address, and daytime telephone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the committee DFO or ADFO at least five (5) business days prior to the meeting so that they may be made available to the Board for its consideration prior to the meeting. Written comments or statements received after this date may not be provided to the Board until its next meeting. Please note that because the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection.

Verbal Comments: Members of the public will be permitted to make verbal comments during the Board meeting only at the time and in the manner allowed herein. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three business (3) days in advance to the committee DFO or ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The committee DFO and ADFO will log each request to make a comment, in the order received, and determine whether the subject matter of each comment is relevant to the Board's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three (3) minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO and ADFO.

Brenda S. Bowen,
Army Federal Register Liaison Officer.

[FR Doc. 2016–12267 Filed 5–24–16; 8:45 am]
BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket Id ED–2016–OESE–0060]

Improving the Academic Achievement of the Disadvantaged (Migrant Education Program)

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: Under section 1308(b)(2)(B) of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act (Pub. L. 107–110) (ESEA, as amended), the Secretary is required to provide notice and seek public comment on the addition of any new proposed Minimum Data Elements (MDEs) for the Migrant Education Program (MEP). The Secretary proposes to add four new MDEs, and solicits public comments accordingly.

DATES: We must receive your comments on or before June 9, 2016.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov,* including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "Help."
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the proposed MDEs, address them to Patricia Meyertholen, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E315, Washington, DC 20202–6135. Telephone: (202) 260–1394.

Privacy Note: The U.S. Department of Education's (Department's) policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Patricia Meyertholen, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E315, Washington, DC 20202–6132. Telephone: (202) 260–1394 or by email: *patricia.meyertholen@ed.gov.*

If you use a telecommunications device for the deaf or a text telephone, call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Under section 1308(b)(1) of the ESEA, as amended, the Secretary is required to assist States in the electronic transfer of student records. The Secretary assists States with this transfer through the Migrant Student Information Exchange (MSIX) system, which links State migratory student databases to support records transfer. Under section 1308(b)(2)(A) of the ESEA, as amended, the Secretary is further required to determine the health and education information that States must exchange regarding migratory students. MSIX supports the exchange of this information in the form of required MDEs.

When the Secretary proposes to add new MDEs, section 1308(b)(2)(B) of the ESEA, as amended, requires the Secretary to consult with States and publish a notice in the **Federal Register** seeking public comment on proposed new MDEs. The Department has previously sought public input on the collection of 72 MDEs (78 FR 79222, Dec. 27, 2013), and in this notice now proposes to add four new MDEs: *Residency Verification Date; Graduation/High School Equivalency (HSE) Indicator; Graduation/HSE Date; and Algebra I Flag.*

We have already held multiple consultations with States regarding the addition of these four MDEs, and no State official or staff expressed opposition during these various consultations. First, we vetted the MDEs with the MSIX State User Group for Analysis and Recommendations over the course of several years, from 2012 through the present. Second, on October 1, 2012, and November 5, 2014, the Department conducted webinars with the MEP Coordination Workgroup, which is comprised of MEP State Directors from the nine MEP regions throughout the Nation. The MEP Coordination Workgroup supported the addition of the four MDEs and corresponding definitions. Third, we presented these MDEs to all of the MEP State Directors on February 11, 2014, during the Annual Directors' Meeting in Washington, DC. The MEP State Directors did not express any opposition to the addition of these MDEs since States already collect this information, in some form or another, in their migrant-specific databases. Finally, we have worked with 22 States on an MSIX Data Quality Initiative (DQI). Through the DQI process, we discussed the need for and use of these new MDEs in greater detail with MEP State Directors and their staff in these 22 States. Once again, no State official or staff expressed opposition to the addition of these four new MDEs.

Overall, MEP State Directors agreed that the inclusion of the first three MDEs—*Residency Verification Date, and Graduation/HSE Indicator and Date*—would support MSIX's ability to provide a more consistent accounting of children eligible to receive MEP services. Our conversations with State officials and staff indicate that the States collect these data in their migrant-specific databases to assist in determining eligibility for the MEP. The addition of these three MDEs would allow MSIX, like the State migratory student-specific databases, to more accurately determine who is eligible for the MEP, which in turn would improve the accuracy of information in MSIX reports related to enrollment, placement, and credit accrual that States use on a daily basis. These three new MDEs would also enable MSIX to account for eligible migratory children not enrolled in school and for migratory children who have graduated or obtained their high school equivalency diplomas.

The fourth proposed MSIX MDE would allow schools to better target math courses for newly arrived migratory students by taking course information that States already collect and highlighting it in MSIX. Inclusion of this MDE would promote better education for migratory students.

The Department now seeks additional public comment on the following four proposed MDEs:

- *Residency Verification Date:* This element would reflect the month, day, and year in which a school or MEP project confirms a migratory student's residency. States or local operating agencies (LOAs) currently collect this information once during the September 1–August 31 performance period to verify student eligibility for MEP services. Including this information in MSIX would help State grantees quickly verify a student's eligibility to receive services under the program.

- *Graduation/HSE Indicator and Graduation/HSE Date:* These two elements would indicate whether a student has graduated from high school or received an HSE diploma, and the date when that event occurred. Grantees use the MSIX system to determine proper enrollment, placement, and credit accrual for migratory students. Including this information in MSIX would help ensure that LOA and local educational agency staff have timely and accurate information about whether and when a migratory student has graduated from high school or received an HSE diploma, thereby allowing much faster determinations about who may continue to receive MEP educational services because they have not graduated or received an HSE diploma, and who may not receive these services because they already have done so.
- *Algebra I Flag:* This element would reflect whether the student has received full credit in Algebra I or an equivalent mathematics course. As reported in National Migrant Education Secondary Credit Accrual Workshops and Focus Groups throughout the years, many States use different course names to reference this mathematics course, and completing the material is essential for both enrollment in higher-level mathematics courses and high school graduation. The Algebra I flag would quickly communicate whether a student has obtained credit for this gatekeeper course, which would enable counselors and other school staff to more quickly enroll and place migratory students in the appropriate mathematics course.

Accessible Format: Individuals with disabilities may obtain this notice in an accessible format (*e.g.*, braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 19, 2016.

Ann Whalen,

Senior Advisor to the Secretary Delegated the Duties of Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2016–12251 Filed 5–24–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, June 16, 2016, 6:00 p.m.

ADDRESSES: Barkley Centre, 111 Memorial Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Jennifer Woodard, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6825.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

- Call to Order, Introductions, Review of Agenda
- Administrative Issues
- Public Comments (15 minutes)
- Adjourn

Breaks Taken As Appropriate

Public Participation: The EM SSAB, Paducah, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Jennifer Woodard as soon as possible in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jennifer Woodard at the telephone number listed above. Requests must be received as soon as possible prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments. The EM SSAB, Paducah, will hear public comments pertaining to its scope (clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use and long-term stewardship; risk assessment and management; and clean-up science and technology activities). Comments outside of the scope may be submitted via written statement as directed above.

Minutes: Minutes will be available by writing or calling Jennifer Woodard at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.pgdpcab.energy.gov/2016_meetings.htm*.

Issued at Washington, DC, on May 19, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–12317 Filed 5–24–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Biomass Research and Development Technical Advisory Committee

AGENCY: Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee, under Section 9008(d) of the Food, Conservation, and Energy Act of 2008 amended by the Agricultural Act of 2014. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that agencies publish these notices in the **Federal Register** to allow for public participation.

DATES: June 13, 2016, 8:30 a.m.–6:00 p.m.; June 14, 2016, 8:30 a.m.–12:30 p.m.

ADDRESSES: The Renaissance Washington DC Dupont Circle, 1143 New Hampshire Avenue NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Elliott Levine, Designated Federal Official for the Committee, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; Email: *Elliott.Levine@ee.doe.gov* and Roy Tiley at (410) 997–7778 ext. 220; Email: *rtiley@bcs-hq.com*.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To develop advice and guidance that promotes research and development leading to the production of biobased fuels and biobased products.

Tentative Agenda: Agenda will include the following:

- Update on USDA Biomass R&D Activities
- Update on DOE, EERE, and Biomass R&D Activities
- Update the Biomass Research and Development Initiative
- Overview of USDA Agriculture and Food Research Initiative (AFRI)
- Overview of DOE Office of Science, Biological and Environmental Research (BER) and Basic Energy Sciences (BES)

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you must contact Elliott Levine at; Email: *Elliott.Levine@ee.doe.gov* and Roy Tiley at (410) 997–7778 ext. 220; Email: *rtiley@bcs-hq.com at least 5 business days* prior to the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Co-chairs of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Co-chairs will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The summary of the meeting will be available for public review and copying at *http://biomassboard.gov/committee/meetings.html*.

Issued at Washington, DC, on May 19, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–12320 Filed 5–24–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Biomass Research and Development Technical Advisory Committee

AGENCY: Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice for solicitation of nominations.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, the U.S. Department of Energy is soliciting nomination for members to fill vacancies on the Biomass Research and Development Technical Advisory Committee (Committee).

DATES: Deadline for Technical Advisory Committee member nominations is June 30, 2016.

ADDRESSES: The nominee's name, resume, biography, and any letters of support must be submitted via one of the following methods:

(1) *Email:* to *elliott.levine@ee.doe.gov*.

(2) Overnight delivery service to the Elliott Levine, Designated Federal Officer for the Committee, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Stop EE–3B, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Elliott Levine, Designated Federal Officer for the Committee, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585; (202) 586–1476; Email: *elliott.levine@ee.doe.gov*.

Committee Web site: http://biomassboard.gov/committee/committee.html.

SUPPLEMENTARY INFORMATION:

The Biomass Research and Development Act of 2000 (Biomass Act) [Pub. L. 106–224] requires cooperation and coordination in biomass research and development (R&D) between the U.S. Department of Agriculture (USDA) and U.S. Department of Energy (DOE). The Biomass Act was repealed in June 2008 by section 9008 of the Food, Conservation and Energy Act of 2008 (FCEA) [Pub. L. 110–246, 122 Stat. 1651, enacted June 18, 2008, H.R. 6124]. The Biomass Act was re-authorized in the Agricultural Act of 2014.

FCEA section 9008(d) established the Biomass Research and Development Technical Advisory Committee and lays forth its meetings, coordination, duties, terms, and membership types. Committee members are paid travel and per diem for each meeting. The Committee must meet quarterly and should not duplicate the efforts of other Federal advisory committees. Meetings are typically two days in duration. Three meetings are held in the Washington DC area and the fourth is held at a site to be determined each year. The Committee advises DOE and USDA points of contact with respect to the Biomass R&D Initiative (Initiative) and priority technical biomass R&D needs and makes written recommendations to the Biomass R&D Board (Board). Those recommendations regard whether: (A) Initiative funds are distributed and used consistent with Initiative objectives; (B) solicitations are open and competitive with awards made annually; (C) objectives and evaluation criteria of the solicitations are clear; and (D) the points of contact are funding proposals selected on the basis of merit, and determined by an independent panel of qualified peers.

The committee members may serve two, three-year terms and committee membership must include: (A) An individual affiliated with the biofuels industry; (B) an individual affiliated with the biobased industrial and commercial products industry; (C) an individual affiliated with an institution of higher education that has expertise in biofuels and biobased products; (D) two prominent engineers or scientists from government (non-federal) or academia that have expertise in biofuels and biobased products; (E) an individual affiliated with a commodity trade association; (F) two individuals affiliated with environmental or conservation organizations; (G) an individual associated with state government who has expertise in biofuels and biobased products; (H) an individual with expertise in energy and environmental analysis; (I) an individual with expertise in the economics of biofuels and biobased products; (J) an individual with expertise in agricultural economics; (K) an individual with expertise in plant biology and biomass feedstock development; (L) an individual with expertise in agronomy, crop science, or soil science; and (M) at the option of the points of contact, other members (REF: FCEA 2008 section 9008(d)(2)(A)). All nominees will be carefully reviewed for their expertise, leadership, and relevance to an expertise. Appointments will be made for three-year terms, as dictated by the legislation.

Nominations this year are needed for the following categories in order to address the Committee's needs: (E) An individual affiliated with a commodity trade association; and (J) an individual with expertise in agricultural economics. Nominations for other categories will also be accepted. Nomination categories C, D, H, I, J, K, L, and M are considered special Government employees and require submittal of an annual financial disclosure form. In addition to the required categories, other areas of expertise of interest to the Committee are individuals with expertise in process engineering related to biorefineries, or biobased coproducts that enable fuel production.

Nominations are solicited from organizations, associations, societies, councils, federations, groups, universities, and companies that represent a wide variety of biomass research and development interests throughout the country. In your nomination letter, please indicate the specific membership category of interest. Each nominee must submit their resume and biography along with any letters of support by the deadline above. If you were nominated in previous years, but were not appointed to the committee and would still like to be considered, please submit your nomination package again in response to this Notice with all required materials. All nominees will be vetted before selection.

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure that recommendations of the Technical Advisory Committee take into account the needs of the diverse groups served by DOE, membership shall include (to the extent practicable), minorities, women, and persons with disabilities. Please note that registered lobbyists serving in an "individual capacity," individuals already serving another Federal Advisory Committee and Federal employees are ineligible for nomination.

Appointments to the Biomass Research and Development Technical Advisory Committee will be made by the Secretary of Energy and the Secretary of Agriculture.

Issued in Washington, DC, on May 19, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–12319 Filed 5–24–16; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2012–0333; FRL–9946–96–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Greenhouse Gas Reporting Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), "Greenhouse Gas Reporting Program (Renewal)" (EPA ICR No. 2300.17, OMB Control No. 2060–0629) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through May 31, 2016. Public comments were previously requested via the **Federal Register** (80 FR 68534) on November 5, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before June 24, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2012–0333, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *A-and-R-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGReporting@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: In response to the FY2008 Consolidated Appropriations Act (H.R. 2764; Pub. L. 110–161) and under authority of the Clean Air Act, the EPA finalized the Mandatory Reporting of Greenhouse Gases Rule (GHG Reporting Rule) (74 FR 56260; October 30, 2009). The GHG Reporting Rule, which became effective on December 29, 2009, establishes reporting requirements for certain large facilities and suppliers. It does not require control of greenhouse gases. Instead, it requires that sources emitting above certain threshold levels of carbon dioxide equivalent (CO_2e) monitor and report emissions.

Subsequent rules have promulgated requirements for additional facilities, suppliers, and mobile sources; provided clarification and corrections to existing requirements; finalized confidentiality business information (CBI) determinations, amended recordkeeping requirements, and implemented an alternative verification approach. Collectively, the GHG Reporting Rule and its associated rulemakings are referred to as the Greenhouse Gas Reporting Program (GHGRP).

The purpose for this ICR is to renew and revise the GHG Reporting Rule ICR to update the burden and cost imposed by the current ICR under the GHGRP.

Form Numbers: None.

Respondents/affected entities: The respondents in this information collection include owners and operators of facilities that must report their GHG emissions and other data to EPA to comply with the rulemaking. To facilitate the analysis, EPA has divided respondents into groups that align with the source categories identified in the rule.

Reporting facilities include, but are not limited to, those operating one or more units that exceed the CO_2e threshold for the industry sectors listed in Table A–4 of 40 CFR 98.2(a)(2) or those in the categories in which all must report, such as petroleum refining facilities and all other large emitters listed in Table A–3 of 40 CFR 98.2(a)(1). Additionally, the GHGRP requires reporting of GHGs from certain suppliers as listed in Table A–5 of 40 CFR 98.2(a)(4) and of certain emissions information associated with mobile sources (*e.g.,* for permit applications or emissions control certification testing procedures).

Respondent's Obligation To Respond: Mandatory (Sections 114 and 208 of the Clean Air Act provide EPA authority to require the information mandated by the Greenhouse Gas Reporting Program because such data will inform and are relevant to future policy decisions).

Estimated Number of Respondents: 11,080 (total).

Frequency of Response: Annual.

Total Estimated Burden: 739,187 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total Estimated Cost: $99,831,931 per year, which includes $30,621,791 for capital investment and operation and maintenance costs for respondents, labor cost of $57,210,010 for respondents, and $12,000,130 for the EPA.

Changes in the Estimates: This change in burden reflects an update in the number of respondents, an adjustment of labor rates to 2014 Bureau of Labor and Statistics (BLS) labor rates, an adjustment of capital costs to reflect 2013 dollars, a re-evaluation of the costs to monitor and report combustion emissions across the entire program, a re-evaluation of the activities and costs associated with Petroleum and Natural Gas Systems (Subpart W) and Geologic Sequestration of Carbon Dioxide (Subpart RR), and the addition of new segments and new reporters under Subpart W.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2016–12310 Filed 5–24–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2014–0138; FRL–9946–91–OW]

Lifetime Health Advisories and Health Effects Support Documents for Perfluorooctanoic Acid and Perfluorooctane Sulfonate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) announces the release of lifetime health advisories (HAs) and health effects support documents for Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS). EPA developed the HAs to assist federal, state, tribal and local officials, and managers of drinking water systems in protecting public health when these chemicals are present in drinking water. EPA's HAs, which identify the concentration of PFOA and PFOS in drinking water at or below which adverse health effects are not anticipated to occur over a lifetime of exposure, are: 0.07 parts per billion (70 parts per trillion) for PFOA and PFOS. HAs are non-regulatory and reflect EPA's assessment of the best available peer-reviewed science. These HAs supersede EPA's 2009 provisional HAs for PFOA and PFOS.

FOR FURTHER INFORMATION CONTACT: Jamie Strong, Health and Ecological Criteria Division, Office of Water (Mail Code 4304T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 566–0056; email address: *strong.jamie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How can I get copies of this document and other related information?

1. Docket. EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2014–0138. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

2. Electronic Access. You may access this **Federal Register** document electronically from the Government Printing Office under the "Federal Register" listings FDSys (*http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR).*

II. What are perfluorooctanoic acid and perfluorooctane sulfonate and why is EPA concerned about them?

PFOA and PFOS are fluorinated organic chemicals that are part of a larger group of chemicals referred to as perfluoroalkyl substances. They were used to make carpets, clothing, fabrics for furniture, paper packaging for food and other materials (*e.g.,* cookware) that are resistant to water, grease or stains. They are also used for firefighting at airfields and in a number of industrial processes. Both PFOA and PFOS are persistent in the environment and in the human body. Over time both chemicals have become widely distributed in the environment and have accumulated in the blood of humans, wildlife, and fish. Studies indicate that exposure to PFOA and PFOS over certain levels may result in adverse health effects, including developmental effects to fetuses during pregnancy or to breast-fed infants (*e.g.,* low birth weight, accelerated puberty, skeletal variations), cancer (*e.g.,* testicular, kidney), liver effects (*e.g.,* tissue damage), immune effects (*e.g.,* antibody production and immunity), and other effects (*e.g.,* cholesterol changes).

III. What are health advisories?

Under the Safe Drinking Water Act, EPA may publish HAs for contaminants that are not subject to any national primary drinking water regulation. SDWA section 1412(b)(1)(F). EPA develops HAs to provide information on the chemical and physical properties, occurrence and exposure, health effects, quantification of toxicological effects, other regulatory standards, analytical methods, and treatment technology for drinking water contaminants. HAs describe concentrations of drinking water contaminants at which adverse health effects are not anticipated to occur over specific exposure durations (*e.g.,* one-day, ten-days, and a lifetime). HAs serve as informal technical guidance to assist federal, state and local officials, as well as managers of public or community water systems in protecting public health. They are not regulations and should not be construed as legally enforceable federal standards. HAs may change as new information becomes available.

IV. Information on the Drinking Water Health Advisories for PFOA and PFOS

EPA's HA levels, which identify the concentration of PFOA and PFOS in drinking water at or below which adverse health effects are not anticipated to occur over a lifetime of exposure, are: 0.07 parts per billion (70 parts per trillion) for PFOA and PFOS. Because these two chemicals cause similar types of adverse health effects, EPA recommends that when both PFOA and PFOS are found in drinking water the combined concentrations of PFOA and PFOS be compared with the 0.07 part per billion HA level.

EPA's lifetime HAs are based on peer-reviewed toxicological studies of exposure of animals to PFOA and PFOS, applying scientifically appropriate uncertainty factors. The development of the HAs was also informed by epidemiological studies of human populations that have been exposed to PFOA and PFOS. The HAs are set at levels that EPA concluded will not result in adverse developmental effects to fetuses during pregnancy or to breast-fed infants, who are the groups most sensitive to the potential harmful effects of PFOA and PFOS. EPA's analysis indicates that exposure to these same levels will not result in adverse health effects (including cancer and non-cancer) to the general population over a lifetime (or any shorter period) of exposure to these chemicals.

EPA's HAs for PFOA and PFOS are supported by peer-reviewed health effects support documents that summarize and analyze available peer-reviewed studies on toxicokinetics, human epidemiology, animal toxicity, and provide a cancer classification and a dose response assessment for noncancer effects. On February 28, 2014, EPA released draft versions of these health effects support documents for a 60-day public comment period and initiated a contractor-led, independent public panel peer review process (79 FR 11429). The peer review panel meeting occurred on August 21–22, 2014, and included seven experts in the following areas: Epidemiology, toxicology (liver, immune, neurological and reproductive and developmental effects), membrane transport, risk assessment, pharmacokinetic models, and mode-of-action for cancer and noncancer effects (79 FR 39386). Comments submitted to EPA's public docket during the 60-day public comment period were provided to the peer reviewers ahead of the meeting for their consideration. A peer review summary report and other supporting documents may be found at: *http://www.regulations.gov* under the docket EPA–HQ–OW–2014–0138.

Dated: May 19, 2016.

Joel Beauvais,

Deputy Assistant Administrator, Office of Water.

[FR Doc. 2016–12361 Filed 5–24–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0021; FRL–9946–40]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before June 24, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the File Symbol of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

1. File Symbol: 91197–E. Docket ID number: EPA–HQ–OPP–2016–0251. Applicant: AFS009 Plant Protection,

Inc., 104 T.W. Alexander Drive, Building 18, Research Triangle Park, NC 27709. Product name: Howler™ T&O. Active ingredient: Fungicide—*Pseudomonas chlororaphis* subsp. *aurantiaca* strain AFS009 at 50.0%. Proposed use: Turf and ornamental plants. Contact: BPPD.

2. File Symbol: 91197–G. Docket ID number: EPA–HQ–OPP–2016–0251. Applicant: AFS009 Plant Protection, Inc., 104 T.W. Alexander Drive, Building 18, Research Triangle Park, NC 27709. Product name: Howler™. Active ingredient: Fungicide—*Pseudomonas chlororaphis* subsp. *aurantiaca* strain AFS009 at 50.0%. Proposed use: Turf and residential use sites and agricultural sites including: Berries, citrus, cotton, cucurbits, flowers, fruiting vegetables, herbs, leafy vegetables, cole crops, ornamentals, peanut, pome fruit, shade house, soybean, stone fruit, tobacco, tree nuts, tubers, and wheat. Contact: BPPD.

3. File Symbol: 91197–R. Docket ID number: EPA–HQ–OPP–2016–0251. Applicant: AFS009 Plant Protection, Inc., 104 T.W. Alexander Drive, Building 18, Research Triangle Park, NC 27709. Product name: Howler™ Technical. Active ingredient: Fungicide—*Pseudomonas chlororaphis* subsp. *aurantiaca* strain AFS009 at 100.0%. Proposed use: Manufacturing Use. Contact: BPPD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: May 18, 2016.

Mark A. Hartman,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2016–12359 Filed 5–24–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0016 and 3060–0874]

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before June 24, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the "Supplementary Information" section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0016.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule C (Former FCC Form 346); Sections 74.793(d) and 74.787, LPTV Out-of-Core Digital Displacement Application; Section 73.3700(g)(1)–(3), Post-Incentive Auction Licensing and Operations; Section 74.800, Low Power Television and TV Translator Channel Sharing.

Form No.: FCC Form 2100, Schedule C.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 4,450 respondents and 4,450 responses.

Estimated Time per Response: 2.5–7 hours (total of 9.5 hours).

Frequency of Response: One-time reporting requirement; on occasion reporting requirement; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i), 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

Total Annual Burden: 42,275 hours.

Annual Cost Burden: $24,688,600.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On December 17, 2015, the Commission adopted the Third Report and Order and Fourth Notice of Proposed Rulemaking, In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations, MB Docket No. 03–185, FCC 15–175 ("LPTV Digital Third Report and Order and Fourth Notice"). This document approved channel sharing between LPTV and TV translator stations as well as created a new digital-to-digital replacement translator.

There are changes to FCC Form 2100, Schedule C to implement channel sharing between low power television (LPTV) and TV translator stations. There are also changes to the substance, burden hours, and costs for the collection.

47 CFR 74.800 permits LPTV and TV translator stations to seek approval to

share a single television channel. Stations interested in terminating operations and sharing another station's channel must submit FCC Form 2100 Schedule C in order to have the channel sharing arrangement approved. If the sharing station is proposing to make changes to its facility to accommodate the channel sharing, it must also file FCC Form 2100 Schedule C.

47 CFR 74.787 permits full power television stations to obtain a digital-to-digital replacement translator to replace service areas lost as a result of the incentive auction and repacking processes. Stations submit FCC Form 2100 Schedule C to obtain a construction permit for the new replacement translator.

OMB Control Number: 3060–0874.

Title: Consumer Complaint Portal: General Complaints, Obscenity or Indecency Complaints, Complaints under the Telephone Consumer Protection Act, Slamming Complaints, RDAs and Communications Accessibility Complaints.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit entities; Not-for-profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 335,909 respondents; 335,909 responses.

Estimated Time per Response: 15 minutes (.25 hours) to 30 minutes (.50 hours).

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Voluntary. The statutory authority for this collection is contained in 47 U.S.C. 208 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996.

Total Annual Burden: 83,988 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's updated system of records notice (SORN), FCC/CGB–1, "Informal Complaints, Inquiries and Requests for Dispute Assistance", which became effective on September 24, 2014.

Privacy Impact Assessment: The Privacy Impact Assessment (PIA) for Informal Complaints and Inquiries was completed on June 28, 2007. It may be reviewed at *http://www.fcc.gov/omd/privacyact/Privacy5FImpact5FAssessment.html.* The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

Needs and Uses: The Commission consolidated all of the FCC informal consumer complaint intake into an online consumer complaint portal, which allows the Commission to better manage the collection of informal consumer complaints. Informal consumer complaints consist of informal consumer complaints, inquiries and comments. This revised information collection requests OMB approval for the addition of a layer of consumer reported complaint information. Consumers filing a complaint in the online portal are currently asked to choose a product, method and issue detailing their complaint. These revisions will allow consumers to choose from additional issues as well as multiple sub-issues. This change will assist consumers in providing more granular information about their complaint, assist the Commission in the processing of the complaint and provide more detailed data to inform enforcement and policy efforts at the Commission.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–12276 Filed 5–24–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 16–561]

Consumer Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission announces the next meeting date, time, and agenda of its Consumer Advisory Committee (hereinafter the Committee). The mission of the Committee is to make recommendations to the Commission regarding consumer issues within the jurisdiction of the Commission and to facilitate the participation of consumers (including underserved populations, such as Native Americans, persons living in rural areas, older persons, people with disabilities, and persons for whom English is not their primary language) in proceedings before the Commission.

DATES: June 10, 2016, 9:00 a.m. to 4:00 p.m.

ADDRESSES: Federal Communications Commission, Commission Meeting Room TW–C305, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Scott Marshall, Consumer and Governmental Affairs Bureau, (202) 418–2809 (voice or Relay), or email *Scott.Marshall@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document DA 16–561, released May 19, 2016, announcing the Agenda, Date, and Time of the Committee's Next Meeting.

Meeting Agenda

At its June 10, 2016 meeting, the Committee is expected to consider the following recommendations:

- An IP-transition recommendation addressing criteria for determining adequate substitute services, consumer education related to the impact of replacing of legacy copper network services with services based on newer technology, and minimizing disruption in the provision of 911 services;
- An IP-transition recommendation regarding battery backup community outreach and education during the IP-Transition;
- A recommendation regarding robocalling and federal debt collection; and,
- A recommendation regarding set top boxes and alternative navigation technology or devices used by consumers.

The Committee will also receive briefings from commission staff on issues of interest to the Committee. A limited amount of time will be available for comments from the public. If time permits, the public may ask questions of presenters via the email address *livequestions@fcc.gov* or via Twitter using the hashtag #fcclive. The public may also follow the meeting on Twitter @fcc or via the Commission's Facebook page at *www.facebook.com/fcc.* Alternatively, members of the public may send written comments to: Scott Marshall, Designated Federal Officer of the Committee at the address provided below.

The meeting is open to the public and the site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, assistive listening devices, and Braille copies of the agenda and committee roster will be provided on site. Meetings of the Committee are also broadcast live with open captioning over the Internet from the FCC Live Web page at *www.fcc.gov/live/.* Other reasonable accommodations for people with disabilities are available upon request. The request should include a detailed description of the accommodation needed and contact information. Please provide as much advance notice as possible; last minute requests will be accepted, but may not be possible to fill. To request an accommodation, send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Federal Communications Commission.

D'Wana Terry,

Associate Bureau Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2016–12309 Filed 5–24–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0192]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before July 25, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0192.

Title: Section 87.103, Posting Station License.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local and tribal government.

Number of Respondents and Responses: 33,622 respondents, 33,622 responses.

Estimated Time per Response: .25 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 303.

Total Annual Burden: 8,406 hours.

Annual Cost Burden: No cost.

Privacy Act Impact Assessment: No impacts.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: Section 87.103 states the following: (a) Stations at fixed locations. The license or a photocopy must be posted or retained in the station's permanent records. (b) Aircraft radio stations. The license must be either posted in the aircraft or kept with the aircraft registration certificate. If a single authorization covers a fleet of aircraft, a copy of the license must be either posted in each aircraft or kept with each aircraft registration certificate. (c) Aeronautical mobile stations. The license must be retained as a permanent part of the station records.

The recordkeeping requirement contained in Section 87.103 is necessary to demonstrate that all transmitters in the Aviation Service are properly licensed in accordance with the requirements of Section 301 of the Communications Act of 1934, as amended, 47 U.S.C. 301, No. 2020 of the International Radio Regulation, and Article 30 of the Convention on International Civil Aviation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–12277 Filed 5–24–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012411.

Title: APL/CMA CGM–U.S. West Coast—Asia Slot Charter Agreement.

Parties: American President Lines, Ltd. and CMA CGM S.A.

Filing Party: Draughn B. Arbona, Esq; CMA CGM (America) LLC; 5701 Lake Wright Drive; Norfolk, VA 23502.

Synopsis: The agreement authorizes APL to charter space to CMA CGM on U.S. flag vessels from the U.S. West Coast on the one hand, to China and South Korea on the other hand.

Agreement No.: 012412.

Title: HMM/ZIM Slot Exchange Agreement.

Parties: Hyundai Merchant Marine Co., Ltd. and Zim Integrated Shipping Services, Ltd.

Filing Party: Mark E. Newcomb; ZIM American Integrated Shipping Services, Co. LLC; 5801 Lake Wright Dr.; Norfolk, VA 23508.

Synopsis: The agreement authorizes Hyundai and Zim to exchange slots in the trade between China, Hong Kong, Malaysia, Panama, Saudi Arabia, Singapore, Sri Lanka, Taiwan, and Vietnam, on the one hand, and the U.S. East Coast and Gulf of Mexico, on the other hand.

Agreement No.: 012413.

Title: MOL/ELJSA Slot Exchange Agreement.

Parties: Mitsui O.S.K. Lines, Ltd and Evergreen Line Joint Service Agreement.

Filing Party: Eric. C. Jeffrey, Esq.; Nixon Peabody LLP; 799 9th Street NW., Suite 500; Washington, DC 20001.

Synopsis: The agreement authorizes the parties to exchange slots in the trade between the U.S. East Coast, on the one hand, and the People's Republic of

China (including Hong Kong), Taiwan, Vietnam, Singapore, Sri Lanka, Egypt, and Panama, on the other hand.

Agreement No.: 201233.

Title: Port Operations and Safety Discussion Agreement.

Parties: The Georgia Ports Authority; The Port of Houston Authority; The Massachusetts Port Authority; The North Carolina State Ports Authority; The South Carolina Ports Authority; The Virginia Port Authority and Virginia International Terminals, LLC; Ocean Carrier Equipment Management Association, Inc.; Ocean Common Carrier Parties in Their Individual Capacity and as Members of OCEMA: Maersk Line A/S; APL Co. Pte Ltd.; American President Lines, Ltd.; CMA CGM S.A.; Cosco Container Lines Company Limited; Evergreen Line Joint Service Agreement FMC No. 011982; Hamburg-Sud; Alianca Navegacao e Logistica Ltda.; Hapag-Lloyd AG; Hapag-Lloyd USA LLC; Hyundai Merchant Marine Co., Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha Line; Orient Overseas Container Line Limited; Yang Ming Marine Transport Corp.; Kawasaki Kisen Kaisha, Ltd.; Atlantic Container Line; Zim Integrated Shipping Services; Mediterranean Shipping Company, S.A.; United Arab Shipping Co.; Wan Hai Lines Ltd.

Filing Party: Jeffrey F. Lawrence, Esq. and Donald J. Kassilke, Esq.; Cozen O'Connor; 1200 Nineteenth Street, NW; Washington, DC 20036.

Synopsis: The Agreement would authorize the parties to exchange information, discuss, and reach voluntary, non-binding agreement on matters relating to rules, procedures, programs, practices, terms and conditions with respect to the organization, development, calculation, availability, transmission or use of Verified Gross Mass data. The parties have requested Expedited Review.

By Order of the Federal Maritime Commission.

Dated: May 20, 2016.

Karen V. Gregory,

Secretary.

[FR Doc. 2016–12327 Filed 5–24–16; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 10, 2016.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Timothy D. Halvorson, St. Ansgar, Iowa, individually, and together as a group acting in concert, with Cynthia C. Carruthers, Fort Myers, Florida, Megan E. Porisch, St. Ansgar, Iowa, and Erin K. Tjaden, Huxley, Iowa,* to acquire additional shares of St. Ansgar Bancorporation, and thereby indirectly retain control of St. Ansgar State Bank, both in St. Ansgar, Iowa.

B. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Duane E. Bowman, Bowman, North Dakota, to join a group acting in concert with Susan Berglund, Bowman, North Dakota; Roger Berglund, Bowman, North Dakota; Gwenn Jones, Bowman, North Dakota; Wendy Jorgenson, Bismarck, North Dakota; and Bruce Bowman, Rhame, North Dakota;* by retaining voting shares of Dakota Western Bankshares, Inc., and thereby indirectly retaining voting shares of Dakota Western Bank, both in Bowman, North Dakota.

Board of Governors of the Federal Reserve System, May 19, 2016.

Michele T. Fennell,

Assistant Secretary of the Board.

[FR Doc. 2016–12264 Filed 5–24–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA). The FTC seeks public comments on its proposal to extend, for three years, the current PRA clearance for information collection requirements contained in the Prescreen Opt-Out Notice Rule ("Prescreen Opt-Out Rule" or "Rule"), which applies to certain motor vehicle dealers, and its shared enforcement with the Consumer Financial Protection Bureau ("CFPB") of the provisions (subpart F) of the CFPB's Regulation V regarding other entities ("CFPB Rule"). This clearance expires on October 31, 2016.

DATES: Comments must be received on or before July 25, 2016.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write "Prescreen Opt-Out Disclosure Rule: FTC File No. P075417" on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/prescreenoptoutpra* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the collection of information and supporting documentation should be addressed Karen Jagielski, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., CC–8232, Washington, DC 20580, (202) 326–2509.

SUPPLEMENTARY INFORMATION:

On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act").[1] The Dodd-Frank Act substantially changed the federal legal framework for financial services providers. Among the changes, the Dodd-Frank Act transferred to the CFPB most of the FTC's rulemaking authority for the prescreen opt-out provisions of the Fair Credit Reporting

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[1] Public Law 111–203, 124 Stat. 1376 (2010).

Act ("FCRA"),[2] on July 21, 2011.[3] For certain other portions of the FCRA, the FTC retains its full rulemaking authority.[4]

The FTC retains rulemaking authority for its Prescreen Opt-Out Rule, 16 CFR part 642, solely for motor vehicle dealers described in section 1029(a) of the Dodd-Frank Act that are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.[5]

On December 21, 2011, the CFPB issued its interim final FCRA rule, including the prescreen opt-out provisions (subpart F) of CFPB's Regulation V.[6] Contemporaneous with that issuance, the CFPB and FTC had each submitted to OMB, and received its approval for, the agencies' respective burden estimates reflecting their overlapping enforcement jurisdiction, with the FTC supplementing its estimates for the enforcement authority exclusive to it regarding the class of motor vehicle dealers noted above. The discussion in the Burden Statement below, following preliminary background information, continues that analytical framework, as appropriately updated or otherwise refined for instant purposes.

Background

Section 615(d) of the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. 1681m(d)(1), requires that any person who uses a consumer report in order to make an unsolicited firm offer of credit or insurance to the consumer, shall provide with each written solicitation a clear and conspicuous statement that:

> (A) Information contained in the consumer's consumer report was used in connection with the transaction; (B) the consumer received the offer of credit or insurance because the consumer satisfied the criteria for credit worthiness or insurability under which the consumer was selected for the offer; (C) if applicable, the credit or insurance may not be extended if, after the consumer responds to the offer, the consumer does not meet the criteria used to select the consumer for the offer or any applicable criteria bearing on credit worthiness or insurability or does not furnish any required collateral; (D) the consumer has a right to prohibit information contained in the consumer's file with any consumer reporting agency from being used in connection with any credit or insurance transaction that is not initiated by the consumer; and (E) the consumer may exercise the right referred to in subparagraph (D) by notifying a notification system established under section 604(e) [of the FCRA]. Section 615(d)(1) of the FCRA [15 U.S.C. 1681m(d)(1)].

Section 615(d) of the FCRA requires further that the disclosure statement "be presented in such format and in such type size and manner as to be simple and easy to understand, as established by the [CFPB], by rule, in consultation with the [FTC], Federal banking agencies and the National Credit Union Administration."

Section 642.3 of the FTC Rule[7] and section 1022.54[8] of the CFPB Rule implement this requirement by establishing a "layered" notice approach that requires a short, simple, and easy-to-understand statement of consumers' opt-out rights on the first page of the prescreened solicitation, along with a longer statement containing additional details elsewhere in the solicitation. Specifically, the Rule required that a short notice be placed on the front side of the first page of the principal promotional document in the solicitation, or, if provided electronically, on the same page and in close proximity to the principal marketing message. The Rule specifies that the type size be larger than the type size of the principal text on the same page, but in no event smaller than 12-point type, or if provided by electronic means, then reasonable steps shall be taken to ensure that the type size is larger than the type size of the principal text on the same page. The Rule further provides that the long notice, that appears elsewhere in the solicitation, be in a type size that is no smaller than the type size of the principal text on the same page, but in no event smaller than 8-point type. The long notice shall begin with a heading in capital letters and underlined, and identifying the long notice as the "PRESCREEN & OPT–OUT NOTICE" in a type style that is distinct from the principal type style used on the same page and be set apart from other text on the page. The Rule also includes model notices in English and Spanish.

Under the Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501–3520, federal agencies must get OMB approval for each collection of information they conduct, sponsor, or require. "Collection of information" means agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing PRA clearance for the information collection requirements associated with the Commission's rules and regulations under the Prescreen Opt-Out Notice Rule, 16 CFR part 642 (OMB Control Number 3084–0132).

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond. All comments must be received on or before July 25, 2016.

Burden Statement

The FTC is seeking clearance for its assumed share of the estimated PRA burden regarding the disclosure requirements under the FTC and CFPB Rules.

The current FTC apportionment of its share of PRA burden is the following:

Total Number of Respondents: 499.
Total Burden Hours: 998.
Total Labor Costs: $249,500.
Total Capital/Non-Labor Costs: $0.

These figures were determined as follows:

A. Number of Respondents

FTC staff estimates that between 500 and 750 entities make prescreened solicitations. Staff conservatively assumed the high-end of this range for further apportioning. From the total of 750 respondents, FTC staff assumed a 33% "carve-out"[9] to the FTC for the above-noted motor vehicle dealers. This resulted in an estimate of 248 motor vehicle dealers subject to the FTC's jurisdiction. After deducting the latter figure from the total of 750 respondents, 502 respondents were left to divide 50:50 between the agencies. With rounding, the FTC apportioned 251 of those respondents to its burden estimates; adding to that the estimated total of 248 motor vehicle dealers resulted in 499 respondents for the FTC.

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[2] 15 U.S.C. 1681 *et seq.*

[3] Dodd-Frank Act, at section 1061. This date was the "designated transfer date" established by the Treasury Department under the Dodd-Frank Act. See Dep't of the Treasury, Bureau of Consumer Financial Protection; Designated Transfer Date, 75 FR 57252, 57253 (Sept. 20, 2010); see also Dodd-Frank Act, at section 1062.

[4] The Dodd-Frank Act does not transfer to the CFPB rulemaking authority for FCRA sections 615(e) ("Red Flag Guidelines and Regulations Required") and 628 ("Disposal of Records"). See 15 U.S.C. 1681s(e); Public Law 111–203, section 1088(a)(10)(E). Accordingly, the Commission retains full rulemaking authority for its "Identity Theft Rules," 16 CFR part 681, and its rules governing "Disposal of Consumer Report Information and Records," 16 CFR part 682. See 15 U.S.C. 1681m, 1681w.

[5] See Dodd-Frank Act, at section 1029 (a), (c).

[6] 76 FR 79308 (Dec. 21, 2011). Subpart F of the interim final rule became effective on December 30, 2011, and is codified at 12 CFR 1022.54.

[7] 16 CFR 642.3.

[8] 12 CFR 1022.54.

[9] For purposes of estimating its motor vehicle dealer furnisher carve-out, the FTC has assumed that 33% of the respondents constitute the number of motor vehicle dealers over which the FTC retains exclusive jurisdiction under the Dodd-Frank Act. To derive this 33% estimate, FTC staff divided an

B. FTC Share of Burden Hours: 998 Hours

Staff assumed that respondents will each spend approximately 2 hours to monitor compliance with the Rule. Thus, 499 respondents for the FTC multiplied by the two hour estimate per respondent resulted in 998 burden hours apportioned to the FTC.

C. FTC Share of Labor Costs: $249,500

Staff assumed that in-house legal counsel for respondents would handle most of the compliance review, and at an estimated average hourly wage of $250 per hour.

D. Capital/Non-Labor Costs: $0

Assumption: Capital and other nonlabor costs should be minimal, at most, since the Rule has been in effect several years, with covered entities now equipped to provide the required notice.

Based on staff's review of industry data and its experience in this area, we have no information to suggest that these figures are not still valid.

Request for Comments

You can file a comment online or on paper. Write "Prescreen Opt-Out Disclosure Rule: FTC File No. P075417" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as a Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which is . . . privileged or confidential," as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest. Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, the Commission encourages you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/prescreenoptoutpra* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov,* you also may file a comment through that Web site.

If you file your comment on paper, write "Prescreen Opt-Out Disclosure Rule: FTC File No. P075417" on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610, (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610, (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before July 25, 2016. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

David C. Shonka,

Acting General Counsel.

[FR Doc. 2016–12330 Filed 5–24–16; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10418]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *June 24, 2016.*

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and

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estimated number of car dealers—62,750 (based on industry data for the number of franchise/new car and independent/used car dealers) by 199,500 (Commission staff's PRA estimate of the number of entities that extend credit to consumers subject to FTC jurisdiction under the FCRA, pre-Dodd-Frank, for the Risk-Based Pricing regulations, as detailed at 75 FR 2724, 2748 n.18 (Jan. 15, 2010)). This came out to 31%. Staff increased this amount to 33% to account for other motor vehicle dealer types (motorbikes, boats, other recreational) also covered within the definition of "motor vehicle dealer" under section 1029(a) of the Dodd-Frank Act.

recommendations must be received by the OMB desk officer via one of the following transmissions:

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 or Email: *OIRA_omb.eop.gov*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of currently approved collection; *Title of Information Collection:* Annual Medical Loss Ratio (MLR) and Rebate Calculation Report and MLR Rebate Notices: *Use:* Under section 2718 of the Affordable Care Act and implementing regulation at 45 CFR part 158, a health insurance issuer (issuer) offering group or individual health insurance coverage must submit a report to the Secretary concerning the amount the issuer spends each year on claims, quality improvement expenses, non-claims costs, Federal and State taxes and licensing and regulatory fees, the amount of earned premium, and beginning with the 2014 reporting year, the amounts related to the reinsurance, risk corridors, and risk adjustment programs established under sections 1341, 1342, and 1343, respectively, of the Affordable Care Act. An issuer must provide an annual rebate if the amount it spends on certain costs compared to its premium revenue (excluding Federal and States taxes and licensing and regulatory fees) does not meet a certain ratio, referred to as the medical loss ratio (MLR). Each issuer is required to submit annually MLR data, including information about any rebates it must provide, on a form prescribed by CMS, for each State in which the issuer conducts business. Each issuer is also required to provide a rebate notice to each policyholder that is owed a rebate and each subscriber of policyholders that are owed a rebate for any given MLR reporting year. Additionally, each issuer is required to maintain for a period of seven years all documents, records and other evidence that support the data included in each issuer's annual report to the Secretary.

Under section 1342 of the Patient Protection and Affordable Care Act and implementing regulation at 45 CFR part 153, issuers of qualified health plans (QHPs) must participate in a risk corridors program. A QHP issuer will pay risk corridors charges or be eligible to receive payments based on the ratio of the issuer's allowable costs to the target amount. Each QHP issuer is required to submit an annual report to CMS concerning the issuer's allowable costs, allowable administrative costs, premium, and proportion of market premium in QHPs. Risk corridors premium information that is specific to an issuer's QHPs is collected through a separate plan-level data form, which is included in this information collection.

CMS received a total of 3 public comments on a number of specific issues regarding the notice of the revised MLR PRA package. CMS has taken into consideration all of the comments and has modified the information collection instruments and instructions (the 2015 MLR Annual Reporting Form and Instructions and the 2015 Risk Corridors Plan-Level Data Form and Instructions) in order to correct minor errors and to provide additional clarifications. *Form Number:* CMS–10418 (OMB control number: 0938–1164); *Frequency:* Annually; *Affected Public:* Private Sector (Business or other for-profits and not-for-profit institutions); *Number of Respondents:* 538; *Number of Responses:* 2,818; *Total Annual Hours:* 235,148. (For policy questions regarding this collection contact Christina Whitefield at (301) 492–4172.)

Dated: May 18, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–12085 Filed 5–24–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Ryan White HIV/AIDS Program Part C HIV Early Intervention Services Program Existing Geographic Service Area

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of Class Deviation from Competition Requirements for Ryan White HIV/AIDS Program (RWHAP) Part C HIV Early Intervention Services Program Existing Geographic Service Area (EISEGA).

SUMMARY: The HIV/AIDS Bureau (HAB) is requesting a class deviation from the competition requirements in order to provide one-year extensions with funds to 346 Ryan White HIV/AIDS Program (RWHAP) Part C HIV Early Intervention Services Program Existing Geographic Service Area (EISEGA) recipients. The purpose of the Part C EISEGA program is to provide HIV primary care in the outpatient setting to targeted low income, underinsured people living with HIV. HAB is finalizing an evaluation of the Part C EISEGA program and development of a new data-driven methodology. This methodology is aimed at ensuring that awards are based on a consistent approach to promote a rational and sustainable allocation of resources while ensuring responsiveness to geographic and healthcare financing considerations, indicators of need, and results along the HIV care continuum. HAB expects to re-compete the entire program in fiscal year (FY) 2018. One-year extensions with funds for all 346 Part C EISEGA recipients enables HAB to finalize the evaluation and methodology development and engage recipients and relevant stakeholders with regard to this new approach prior to implementation and without disrupting the provision of critical HIV primary medical care services to the current RWHAP clients served by these recipients. Pending the availability of funds, the amount of each FY 2017 award will be based on a

proportion of the FY 2016 Part C EISEGA award to each of the 346 recipients, respectively.

FOR FURTHER INFORMATION CONTACT: CAPT Mahyar Mofidi, DMD, Ph.D., Director, Division of Community HIV/AIDS Programs, HIV/AIDS Bureau, Health Resources and Services Administration, 5600 Fishers Lane, 09N09, Rockville, MD 20857, Phone: (301) 443–2075, Email: *mmofidi@hrsa.gov*.

SUPPLEMENTARY INFORMATION:

Period of Supplemental Funding: January 1, 2017–December 31, 2017

Intended Recipients of the Award (92): Health Services Center, Franklin Primary Health Center, Montgomery AIDS Outreach, Alaska Native Tribal Health Consortium, Maricopa County Special Health Care District, El Rio Santa Cruz Neighborhood Health Center, Watts Healthcare Corporation, AltaMed Health Services Corporation, Tri City Health Center, West County Health Centers, Los Angeles Gay and Lesbian Community Services Center, County of San Bernardino, Family Health Centers of San Diego, Northeast Valley Health Corporation, San Francisco Community Clinics Consortium, County of Santa Clara, North County Health, County of Orange, County of Santa Cruz, Community Medical Centers, Mendocino Community Health Clinic, Denver Hospital & Health Authority, Unity Health, Florida Department of Health Monroe County, University of Miami, Miami Beach Community Health Center, Emory University, St. Joseph Mercy Cares, Georgia Health Sciences University, Chatham County Board of Health, Ware County Board of Health, Hektoen Institute for Medical Research, Howard Brown Health Center, University of Illinois at Peoria, The Health & Hospital Corp of Marion County, University of Kansas, City of Portland, Chase Brexton Health Services, Fenway Community Health Center, Holyoke Health Center, Dimock Community Health Center, Regents of the University of Michigan, Wayne State University, Trinity Health Corporation, The Coastal Family Health Center, Kansas City Free Health Clinic, Washington University, AIDS Project of The Ozarks, University of Nebraska, Northern Nevada Hopes, Newark Community Health Centers, Inc., Rutgers, The State University Of New Jersey, St. Joseph's Hospital and Medical Center, St. Francis Medical Center, Bronx Lebanon Hospital, Albany Medical College, Research Foundation SUNY, Brooklyn Hospital Center, Lutheran Medical Center, NYCHHC/Cumberland Diagnostic, Erie County Medical Center, NARCO Freedom, Inc.,* North Shore University Hospital, New York University, Inc., Community Healthcare Network, Montefiore Medical Center, Care for the Homeless, East Harlem Council for Human Services, Open Door Family Medical Center, A C Center, Inc., Western North Carolina Community Health Center, Portsmouth Health Department, University of Oklahoma, Oklahoma State University, County of Multnomah, Esperanza Health Center, City of Philadelphia, Centro De Salud Familiar Dr. Julio Palmieri Ferri, Inc./San Juan Bautista Medical Center, Municipio de Bayamon, Med Centro/Consejo De Salud de Puerto Rico, Puerto Rico Community Network For Clinical Research on AIDS (CONCRA), Miriam Hospital, Shelby County Health Corporation/Regional One, Parkland Dallas County Hospital District, Centro De Salud Familiar La Fe, Tarrant County, Valley AIDS Counsel, Harris County Hospital District, City of Austin, University of Utah, Frederiksted Medical Center, and Harborview Medical Center.

Period of Supplemental Funding: April 1, 2017–March 31, 2018

Intended Recipients of the Award (114): AIDS Action Huntsville, Whatley Family Health Services, University of Arizona, ARcare, East Arkansas Family Health Center, Open Door Community Health Centers, County of Solano, Fresno Community Hospital and Medical Center, University of Southern California, County of Plumas, Center for AIDS Research, Education and Services, Monterey County/Natividad Medical Center, Tarzana Treatment Center, Inc., Ampla Health, County of Ventura,+ Boulder Community Hospital/Beacon Center for Infectious Disease, St. Mary's Hospital Medical Center, Inc., Pueblo Community Center, Community Health Center, Inc. +, Cornell Scott Hill Health Corporation, Community Health and Wellness of Greater Torrington, Waterbury Hospital, Generations Family Health Center, Howard University Hospital Comprehensive Clinic,+ Whitman Walker Clinic, Florida Health Department/Polk County Health Department, Okaloosa County, Florida Health Department/Duval County Health Department, Florida Health Department/Hendry County Health Department, Borinquen Health Care Center,+ Inc., Florida Dept. of Health—Orange County, Manatee County Rural Health Services, Inc., Specialty Care Clinic/Clarke County, North Georgia Health District/Cherokee County, Dekalb County Board of Health, Positive Health Impact Centers, Inc., Houston County Board of Health, Cobb County Board of Health, Georgia Dept. of Health-Floyd County, South Health District/Lowndes County, Waikiki Health Center, Heartland Health Outreach, Inc., Lawndale Christian Health Center, Near North Health Service Corporation, Crusaders Central Clinic Association, Matthew 25 AIDS Services, University of Kentucky, Capitol City Family Health Center, Greater Ouachita Coalition Providing AIDS Resources & Education, Inc., Administrators of the Tulane Educational Fund, Maine General, Regional Medical Center at Lubec, Johns Hopkins University, MedStar Research Institute,+ Boston Healthcare for the Homeless, Brockton Neighborhood Center, Cape Cod Hospital, Lynn Community Health, Inc., University of Massachusetts, G.A. Carmichael Family Health Center, Greenwood LeFlore/GLH Magnolia, Southeast Mississippi Rural Health Initiative, University Mississippi Medical Center, Northwest Health Services, Inc.,+ Chadron Community Hospital and Health Services, University Medical Center Southern Nevada, Trustees of Dartmouth College, Visiting Nurse Association of Central Jersey Community Health Center, Cooper Health System, University of New Mexico, Puerto Rican Organization to Motivate Enlighten and Serve Addicts (PROMESA), New York City Health and Hospitals Corporation-Elmhurst, APICHA Community Health Center, New York Health and Hospital Center, William Ryan Community Health Center, Hudson Headwaters Health Network, St John's Riverside Hospital, University of North Carolina at Chapel Hill, Catawba Valley Medical Center, Tri-County Community Health Council, Robeson Health Care Corporation, Wake Forest University, Ursuline Center, Inc., Cincinnati Health Network, University of Hospitals of Cleveland, University of Toledo, Community Health Net,+ Hamilton Health Center, Inc.,+ LeHigh Valley Hospital, Inc., St. Luke's Hospital, Clarion University of Pennsylvania, Lancaster General Hospital, Kensington Hospital, Philadelphia Fight, Allegheny-Singer Research Institute, Reading Hospital, The Wright Center Medical Group, P.C., Ryder Memorial Hospital, Thundermist Health Center, Hope Health, Inc., CareSouth Carolina, Inc.,+ Sandhills

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* NARCO Freedom, Inc. is currently in the process of transferring the grant. Recipient name will be updated upon completion of the transfer.

+ Recipient was approved for a one-year extension with funds in FY 2016.

Medical Foundation, Affinity Health Care, Spartanburg Regional Health Services District, City of Sioux Falls, Chattanooga CARES, Meharry Medical College, AIDS Arms, Special Health Resources for TX, Inc., Rector and Visitors of the University of Virginia, CAMC Health Ed & Research, West Virginia University Research Corporation, 16th Street Community Center, and Wyoming Department of Health.

Period of Supplemental Funding: May 1, 2017–April 30, 2018

Intended Recipients of the Award (140): University of Alabama, Mobile County Health Department, Anchorage Neighborhood Health Center, Inc., Jefferson Comprehensive Care System, Inc., El Proyecto Del Barrio, Inc., Clinica Sierra Vista, Regents of University of California, Bartz-Altadonna Community Health Center, Dignity Health DBA Saint Mary Medical Center, AIDS Healthcare Foundation, Charles Drew University Of Medicine And Science, JWCH Institute, Inc., T.H.E. Clinic, Inc.$^{+}$, Contra Costa County Health Services Dept., Shashta Community Health Center, City & County Of San Francisco, Centro De Salud de La Comunidad San Ysidro, Santa Barbara County Health Department, Santa Rosa Community Health Centers, Venice Family Clinic, Optimus Health Care, Inc., South-West Community Health Center, Inc., Community Health Services, Inc., Fair Haven Community Health Clinic, Inc., Christiana Care Health Services, Inc., Family and Medical Counseling Service, Providence Health Foundation, Charlotte and DeSoto County Health Department, North Broward Hospital District, The McGregor Clinic, Inc., University of Florida, Collier Health Services, Inc., Unconditional Love, Inc., Jessie Trice Community Health Center, Inc., St. Johns County Health Department, Neighborhood Medical Center, Inc., Albany Area Primary Health Care, Inc., AID Atlanta, Columbus Department of Public Health, County of Laurens, County of Hall, County of Clayton, Family Medicine Residency Of Idaho, Idaho State University, Access Community Health Network, Christian Community Health Center, Erie Family Health Center, University of Illinois at Chicago, Open Door of Greater Elgin, Southern Illinois Healthcare Foundation, Siouxland Community Health Center, Genesis Health System, The University of Iowa, Primary Health Care, Inc., University of Louisville Research Foundation, Heartland Cares, Inc., Our Lady of the Lake Hospital, Inc., Southwest Louisiana AIDS Council, NO/AIDS Task Force, University Medical Center Management Corporation, Louisiana State University HSC, Total Health Care, Inc., Greater Baden Medical Services, Cambridge Health Alliance, Harbor Health Services^{+}, Greater Lawrence Family Health Center, Inc., Jordan Hospital, Inc., Family Health Center of Worcestor, Inc. $^{+}$, East Boston Neighborhood Health Center Corporation, Greater New Bedford Community Health Center, Inc., Outer Cape Health Services, Inc., Detroit Community Health Connection^{+}, Minneapolis Medical Research Foundation, Aaron E. Henry Community Health Services Center, Inc.$^{+}$, Delta Regional, Yellowstone City-County Health Department, Missoula County/City, Zufall Health Center, Inc., CarePoint Health Foundation Inc.$^{+}$, Rutgers, The State University Of New Jersey, Neighborhood Health Services Corporation, Southwest C.A.R.E. Center, Whitney M. Young, Jr., Health Center, Inc., Bronx Community Health Network, HELP/PSI Services Corp., Morris Heights Health Center, Brooklyn Plaza Medical Center, Inc., Community Health Project, Inc., Mt. Sinai Hospital^{+}, The Institute for Family Health, Hudson River Healthcare, Inc., Joseph P. Addabbo Family Health Center, Project Renewal, Inc., St. Luke's-Roosevelt Hospital Center, Quality Home Care Services, Lincoln Community Health Center, Incorporated, East Carolina University, Warren-Vance Community Health Center, Inc., Wake County Department of Health, New Hanover Regional Medical Center, Carolina Family Health Centers, Inc., Care Alliance, AIDS Resource Center Ohio, Inc., Research Institute At Nationwide Children's Hospital, Keystone Rural Health Center, AIDS Care Group, Pinnacle Health Medical Services, The Pennsylvania State University, Greater Philadelphia Health Action, Incorporated, Albert Einstein Medical Center, Drexel University College of Medicine, UPMC Presbyterian Shadyside^{+}, Family First Health Corporation, Gurabo Community Health Center Inc/NeoMed, Centro De Salud De Lares, Inc., Concilio de Salud Integral De Loiza, Inc., Migrant Health Center, Western Region, Inc., Centro Ararat, Inc., Roper St. Francis Foundation, Eau Claire Cooperative Health Center, Low Country Health Care System, Inc., New Horizon Family Health Services, Inc., Little River Medical Center, Inc., Beaufort-Jasper-Hampton Comprehensive Health Services, Inc., Vanderbilt University Medical Center^{+}, El Centro Del Barrio, Houston Regional HIV/AIDS Resource Group, Inc., Fletcher Allen Health Care, Inc., Eastern Virginia Medical School, Mary Washington Hosp./Medicorp Health System, Centra Health, Inc.$^{+}$, Virginia Commonwealth University, Carilion Medical Center, INOVA Health Care Services, Country Doctor Community Clinic, Community Health Care, Yakima Valley Farmworkers Clinic, University Of Wisconsin-Madison, AIDS Resource Center of Wisconsin, and Milwaukee Health Services, Inc.

Aggregate amount of Non-Competitive Awards: $186,586,879.

CFDA Number: 93.918

Authority: Sections 2651–2667 of the Public Health Service Act (42 U.S.C. 300ff–51 through 67) and section 2693 of the Public Health Service Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. 111–87)

Justification: One-year extensions with funds for all 346 Part C EISEGA recipients will enable HAB's Division of Community HIV/AIDS Programs to finalize the evaluation and methodology development and engage recipients and relevant stakeholders. The new data-driven methodology is aimed at ensuring that Part C EISEGA awards are based on a consistent approach to promote a rational and sustainable allocation of resources without disrupting the provision of critical HIV primary medical care services to the current RWHAP clients served by these recipients.

Dated: May 17, 2016.

James Macrae,

Acting Administrator.

[FR Doc. 2016–12304 Filed 5–24–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

State and Regional Primary Care Associations Cooperative Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of Class Deviation from Competition Requirements for the State and Regional Primary Care Associations (PCA) Cooperative Program.

SUMMARY: In accordance with the Grants Policy and Administration Manual (GPAM) Part F: Chapter 2.b.34, the Bureau of Primary Health Care (BPHC) has been granted a class deviation from the requirements for competition contained in the GPAM Part F: Chapter 2.b.4 to award funds to bridge 52 PCAs

three months. This extension, from March 31, 2017, to June 30, 2017, will extend the project and budget period end dates for the 52 PCAs which will result in alignment with other BPHC cooperative agreements.

SUPPLEMENTARY INFORMATION: Awardees of record and intended award amounts are:

Organization name	Grant No.	State	Current project period end date	Revised project period end date	FY 2016 authorized funding level	Cost of 3-month extension
APCA, INC dba Alaska Primary Care Association	U58CS06838	AK	3/31/2017	6/30/2017	$ 1,398,544	$349,636
Alabama Primary Health Care Association, Inc.	U58CS06865	AL	3/31/2017	6/30/2017	573,058	143,265
Community Health Centers of Arkansas	U58CS06851	AR	3/31/2017	6/30/2017	823,532	205,883
Arizona Association of Community Health Centers, Inc..	U58CS06829	AZ	3/31/2017	6/30/2017	1,400,981	350,245
California Primary Care Association	U58CS06830	CA	3/31/2017	6/30/2017	2,889,496	722,374
Community Health Association of Mountain/Plains States.	U58CS06861	CO	3/31/2017	6/30/2017	519,941	129,985
Colorado Community Health Network	U58CS06862	CO	3/31/2017	6/30/2017	1,189,418	297,355
Community Health Center Association of Connecticut, Inc..	U58CS06842	CT	3/31/2017	6/30/2017	845,308	211,327
District of Columbia Primary Care Association	U58CS06832	DC	3/31/2017	6/30/2017	508,423	127,106
Florida Association of Community Health Centers, Inc..	U58CS06812	FL	3/31/2017	6/30/2017	1,109,444	277,361
Georgia Association for Primary Health Care	U58CS06827	GA	3/31/2017	6/30/2017	1,163,056	290,764
Hawaii Primary Care Association	U58CS06817	HI	3/31/2017	6/30/2017	892,177	223,044
Pacific Islands Primary Care Association	U58CS06819	HI	3/31/2017	6/30/2017	563,594	140,899
Iowa Primary Care Association	U58CS06813	IA	3/31/2017	6/30/2017	803,560	200,890
Idaho Primary Care Association	U58CS06825	ID	3/31/2017	6/30/2017	837,358	209,340
Illinois Primary Care Association	U58CS06822	IL	3/31/2017	6/30/2017	1,294,784	323,696
Indiana Primary Health Care Association	U58CS06826	IN	3/31/2017	6/30/2017	789,671	197,418
KS Association for the Medically Underserved	U58CS06815	KS	3/31/2017	6/30/2017	738,682	184,671
Kentucky Primary Care Association, Inc.	U58CS06811	KY	3/31/2017	6/30/2017	598,562	149,641
Louisiana Primary Care Association, Inc.	U58CS06850	LA	3/31/2017	6/30/2017	802,584	200,646
MA League of Community Health Centers	U58CS06805	MA	3/31/2017	6/30/2017	1,583,655	395,914
Mid-Atlantic Association of Community Health Centers.	U58CS06852	MD	3/31/2017	6/30/2017	924,622	231,156
Maine Primary Care Association	U58CS06806	ME	3/31/2017	6/30/2017	956,141	239,035
Michigan Primary Care Association	U58CS06824	MI	3/31/2017	6/30/2017	1,159,988	289,997
Minnesota Association of Community Health Centers.	U58CS06823	MN	3/31/2017	6/30/2017	640,461	160,115
Missouri Coalition for Primary Health Care	U58CS06814	MO	3/31/2017	6/30/2017	1,076,386	269,097
Mississippi Primary Health Care Association	U58CS06839	MS	3/31/2017	6/30/2017	1,172,882	293,221
Montana Primary Care Association	U58CS06863	MT	3/31/2017	6/30/2017	1,208,262	302,066
NC Community Health Center Association	U58CS06835	NC	3/31/2017	6/30/2017	1,331,574	332,894
Health Care Association of Nebraska	U58CS21504	NE	3/31/2017	6/30/2017	689,500	172,375
Bi-State Primary Care Association	U58CS06837	NH	3/31/2017	6/30/2017	1,350,174	337,544
New Jersey Primary Care Association	U58CS06804	NJ	3/31/2017	6/30/2017	859,705	214,926
New Mexico Primary Care Association	U58CS06818	NM	3/31/2017	6/30/2017	996,359	249,090
Great Basin Primary Care Association	U58CS06843	NV	3/31/2017	6/30/2017	659,556	164,889
Community Health Care Association of NY	U58CS06809	NY	3/31/2017	6/30/2017	1,348,330	337,083
Ohio Primary Care Association	U58CS06820	OH	3/31/2017	6/30/2017	1,328,965	332,241
Oklahoma Community Health Center, Inc.	U58CS06840	OK	3/31/2017	6/30/2017	1,108,428	277,107
Oregon Primary Care Association	U58CS06831	OR	3/31/2017	6/30/2017	1,415,896	353,974
Pennsylvania Association Of Community Health Centers.	U58CS06853	PA	3/31/2017	6/30/2017	929,965	232,491
Associacion De Salud Primaria De Puerto Rico, Inc..	U58CS06879	PR	3/31/2017	6/30/2017	746,152	186,538
Rhode Island Health Center Association	U58CS06847	RI	3/31/2017	6/30/2017	531,909	132,977
South Carolina Primary Health Care Association	U58CS06828	SC	3/31/2017	6/30/2017	1,326,847	331,712
Community Healthcare Association, Inc./Community Healthcare Association of the Dakotas, Inc..	U58CS06844	SD	3/31/2017	6/30/2017	1,167,957	291,989
Tennessee Primary Care Association	U58CS06816	TN	3/31/2017	6/30/2017	1,006,019	251,505
Texas Association of Community Health Center	U58CS06810	TX	3/31/2017	6/30/2017	1,706,678	426,670
Association for Utah Community Health	U58CS06848	UT	3/31/2017	6/30/2017	947,955	236,989
Virginia Primary Care Association, Inc.	U58CS06833	VA	3/31/2017	6/30/2017	1,464,290	366,073
Washington Association of Community & Migrant Health Centers.	U58CS06845	WA	3/31/2017	6/30/2017	846,303	211,576
Northwest Regional Primary Care Association	U58CS06846	WA	3/31/2017	6/30/2017	956,869	239,217
Wisconsin Primary Health Care Assoc.	U58CS06821	WI	3/31/2017	6/30/2017	871,403	217,851
West Virginia Primary Care Association, Inc.	U58CS06834	WV	3/31/2017	6/30/2017	827,930	206,983
Wyoming Primary Care Association	U58CS06849	WY	3/31/2017	6/30/2017	631,548	157,887

Amount of the Award(s): Up to $13,378,721.

CFDA Number: 93.129.

Period of Supplemental Funding: March 31, 2017, to June 30, 2017.

Authority: Section 330(l) of the Public Health Service Act, as amended.

Justification

The Health Resources and Services Administration will be issuing a noncompetitive award for the State and Regional Primary Care Associations Cooperative Program. Approximately $13,378,721 will be made available in the form of a cooperative agreement to the above list of awardees to extend their April 1, 2016, to March 31, 2017, project and budget period by 3 months to end on June 30, 2017.

The program is authorized by section 330(l) of the Public Health Service (PHS) Act, as amended, to issue grants, cooperative agreements, and contracts to provide necessary technical and non-financial assistance to potential and existing section 330 health centers. Recipients of these cooperative agreements conduct statewide/regional training and technical assistance activities to assist potential and existing health centers in the identified state/region to meet Health Center Program requirements, improve organizational performance, and provide statewide/regional technical assistance.

Through this program, HRSA enters into cooperative agreements with state and regional organizations to provide training and technical assistance. The training and technical assistance activities are based on the identified statewide/regional needs as well as program assistance activities based on HRSA priorities.

FOR FURTHER INFORMATION CONTACT: Matt Kozar, Strategic Initiatives and Planning Division Director, Office of Policy and Program Development, Bureau of Primary Health Care, Health Resources and Services Administration, at *mkozar@hrsa.gov* or 301–443–1034.

Dated: May 17, 2016.

James Macrae,

Acting Administrator.

[FR Doc. 2016–12302 Filed 5–24–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Advisory Committee on Children and Disasters and the National Preparedness and Response Science Board

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the National Advisory Committee on Children and Disasters (NACCD) and the National Preparedness and Response Science Board (NPRSB) will be holding a joint public teleconference.

DATES: The NACCD and NPRSB will hold a joint public meeting on June 17, 2016, from 1:00 p.m. to 2:00 p.m. EST. The agenda is subject to change as priorities dictate.

ADDRESSES: Individuals who wish to participate should send an email to *NACCD@HHS.GOV* and *NPRSB@HHS.GOV* with "NACCD Registration" or "NPRSB Registration" in the subject line. The meeting will occur by teleconference. To attend via teleconference and for further instructions, please visit the NACCD and NPRSB Web sites at *WWW.PHE.GOV/NACCD* or *WWW.PHE.GOV/NPRSB.*

FOR FURTHER INFORMATION CONTACT: Please submit an inquiry via the NPRSB Contact Form or the NACCD Contact Form located at *www.phe.gov/NACCDComments* or *www.phe.gov/NBSBComments.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), and section 2811A of the Public Health Service (PHS) Act (42 U.S.C. 300hh–10a), as added by section 103 of the Pandemic and All Hazards Preparedness Reauthorization Act of 2013 (Pub. L. 113–5), the HHS Secretary, in consultation with the Secretary of the U.S. Department of Homeland Security, established the NACCD. The purpose of the NACCD is to provide advice and consultation to the HHS Secretary with respect to the medical and public health needs of children in relation to disasters. Pursuant to section 319M of the PHS Act (42 U.S.C. 247d–7f) and section 222 of the PHS Act (42 U.S.C. 217a), HHS established the NPRSB. The Board shall provide expert advice and guidance to the Secretary on scientific, technical, and other matters of special interest to HHS regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate. The NPRSB may also provide advice and guidance to the Secretary and/or the Assistant Secretary for Preparedness and Response (ASPR) on other matters related to public health emergency preparedness and response.

Background: This joint public meeting via teleconference will be dedicated to the NACCD and NPRSB's deliberation and vote on the youth leadership task letter received from the ASPR. Subsequent agenda topics will be added as priorities dictate. Any additional agenda topics will be available on the June 17, 2016, meeting Web pages of the NACCD and NPRSB, available at *WWW.PHE.GOV/NACCD* and *WWW.PHE.GOV/NPRSB.*

Availability of Materials: The joint meeting agenda and materials will be posted prior to the meeting on the June 17th meeting Web pages at *WWW.PHE.GOV/NACCD* and *WWW.PHE.GOV/NPRSB.*

Procedures for Providing Public Input: Members of the public are invited to attend by teleconference via a toll-free call-in phone number which is available on the NPRSB or NACCD Web sites at *WWW.PHE.GOV/NACCD* and *WWW.PHE.GOV/NPRSB.* All members of the public are encouraged to provide written comment to the NPRSB and NACCD. All written comments must be received prior to June 17, 2016, and should be sent by email to *NACCD@HHS.GOV* or *NPRSB@HHS.GOV* with "NACCD Public Comment" or "NPRSB Public Comment" as the subject line. Public comments received by close of business one week prior to the teleconference will be distributed to the NACCD or NPRSB in advance.

Dated: May 18, 2016.

Nicole Lurie,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2016–12318 Filed 5–24–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Medical Professionals Recruitment and Continuing Education Program; Correction

AGENCY: Indian Health Service, HHS.

ACTION: Notice; correction.

SUMMARY: The Indian Health Service published a document in the **Federal Register** on April 27, 2016, for the Fiscal Year 2016 Medical Professionals Recruitment and Continuing Education Program. The notice contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Dr. Susan Karol, Chief Medical Officer, 5600 Fishers Lane, Mail Stop: 08E53, Rockville, MD 20857, Telephone 301–443–1083. (This is not a toll-free number.)

Correction

In the **Federal Register** of April 27, 2016, in FR Doc. 2016–09812, the following corrections are made:

1. On page 24828, in the first column, under the heading "Key Dates", the correct Earliest Anticipated Start Date should read as "Earliest Anticipated Start Date: August 15, 2016".

2. On page 24829, in the first column, under the heading "Project Period", the correct paragraph should read as "The project period will be for three (3) years and will run consecutively from August 15, 2016 to August 14, 2019".

Dated: May 11, 2016.

Elizabeth A. Fowler,

Deputy Director for Management Operations, Indian Health Service.

[FR Doc. 2016–12303 Filed 5–24–16; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Surveys and Interviews To Support an Evaluation of the Innovative Molecular Analysis Technologies (IMAT) Program (NCI)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute, the National Institutes of Health, has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 23, 2016, Vol. 81, Page 15541 and allowed 60-days for public comment. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, or request more information on the proposed project, contact: Anthony Dickherber, NCI Center for Strategic Scientific Initiatives, 31 Center Drive, Rm10A33, Bethesda, MD 20892 or call non-toll-free number 301–547–9980 or Email your request, including your address to: *dickherberaj@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Surveys and Interviews to Support an Evaluation of the Innovative Molecular Analysis Technologies (IMAT) Program (NCI), 0925–0720, Expiration Date 5/31/2016—EXTENSION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of the proposed evaluation is to pursue a comprehensive process and outcome assessment of the 15-year old Innovative Molecular Analysis Technologies (IMAT) program. While the program consistently offers promising indicators of success, the full program has not been evaluated since 2008, and never in as comprehensive a manner as has been formulated in the current evaluation plan. An outcome evaluation of the long-standing National Cancer Institute's (NCI) IMAT program presents a rich and unique opportunity likely to serve institutes across the National Institutes of Health (NIH), and perhaps other federal agencies, considering the costs and benefits of directing resources towards supporting technology development. An award through the NIH Evaluation Set-Aside program to support this evaluation, for which NIH-wide relevance is a principle element of determining merit for support, is testament to this. The evaluation serves as an opportunity to gauge the impact of investments in technology development and also to assess the strengths and weaknesses of phased innovation award mechanisms. Prior approval from OMB allowed for extensive surveys and interviews already, and this extension is requested to accommodate unforeseen delays in collecting the remaining information.

Like all institutes and centers (ICs) of the NIH, NCI seeks opportunities for improving their programs' utility for the broad continuum of researchers, clinicians and ultimately patients. NCI Acting Director Douglas Lowy and other leadership across NCI, as well as the NCI Board of Scientific Advisors, will be the primary users of the evaluation results. Findings are primarily intended for considering the long-term strategy to support innovative technology development and how to more efficiently translate emerging capabilities through such technologies into the promised benefits for cancer research and clinical care. Interviews with grantees, program officers, review officers, and other NIH awardees make up a crucial component of the evaluation plan and will largely follow set survey protocols. Specific near-term aims include the use of this information to consider the utility of continued investment through existing solicitations and in strategic planning generally for institute support for innovative technology development.

OMB approval is requested for 1 year. There are no costs to respondents other than their time. The total estimated annualized burden hours are 233.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden (in hours)
Interview—IMAT Grantee	IMAT Awardees	18	1	1	18
Web-based Survey—Technology Grantees.	IMAT Awardees; Other NIH Awardees representing comparison group.	379	1	30/60	190
Interview—Tech End-Users	Technology End-Users	50	1	30/60	25
Totals		447	447		233

Dated: May 19, 2016.

Karla Bailey,

Project Clearance Liaison, National Cancer Institute, NIH.

[FR Doc. 2016–12294 Filed 5–24–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Cancer, Heart, and Sleep Epidemiology B Study Section.

Date: June 16–17, 2016.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Rd. NW., Washington, DC 20015.

Contact Person: Ellen K Schwartz, EDD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3144, MSC 7770, Bethesda, MD 20892, 301–828–6146, *schwarel@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Psychosocial Risks and Disease Prevention.

Date: June 21, 2016.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, 301–594–3292, *niw@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Diagnostics, Food Safety, Sterilization/Disinfection, and Bioremediation.

Date: June 23–24, 2016.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton La Jolla Hotel, 3299 Holiday Court, La Jolla, CA 92037.

Contact Person: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pandyaga@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Non-HIV Microbial Diagnostic and Detection Research.

Date: June 24, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton La Jolla Hotel, 3299 Holiday Court, La Jolla, CA 92037.

Contact Person: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pandyaga@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Innovative Immunology Research.

Date: June 24, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Arlington Capital View Hotel, 2800 South Potomac Ave., Arlington, VA 22202.

Contact Person: Deborah Hodge, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4207 MSC 7812, Bethesda, MD 20892, (301)435–1238, *hodged@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Microbiome and Related Sciences.

Date: June 24, 2016.

Time: 10:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott Downtown Silver Spring, 8506 Fenton Street, Fenton Street, Silver Spring, MD 20910.

Contact Person: Aiping Zhao, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 2188 MSC7818, Bethesda, MD 20892–7818, (301) 435–0682, *zhaoa2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR13–231: Phenotyping Embryonic Lethal Knockout Mice.

Date: June 24, 2016.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maqsood A Wani, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2114, MSC 7814, Bethesda, MD 20892, 301–435–2270, *wanimaqs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Collaborative Applications: Adult Psychopathology.

Date: June 24, 2016.

Time: 1:00 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Marines' Memorial Club and Hotel, 609 Sutter Street, San Francisco, CA 94102.

Contact Person: Serena Chu, Ph.D., Scientific Review Officer, BBBP IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, 301–500–5829, *sechu@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Alzheimer's Disease Pilot Clinical Trials.

Date: June 24, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mark Lindner, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, 301–915–6298, *mark.lindner@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 19, 2016.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–12295 Filed 5–24–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel;

BRAIN Initiative: Non-Invasive Neuromodulation—New Tools and Techniques for Spatiotemporal Precision.

Date: June 15, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Rebecca Steiner Garcia, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9608, Bethesda, MD 20892–9608, 301–443–4525, *steinerr@mail.nih.gov.*

Name of Committee: National Institute of Mental Health, Special Emphasis Panel; Services Research for ASD for TAY and Adults (SERV ASD).

Date: June 17, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Karen Gavin-Evans, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6153, MSC 9606, Bethesda, MD 20892, 301–451–2356, *gavinevanskm@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Zero Suicide RFA.

Date: June 21, 2016.

Time: 11:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Pathway to Independence Awards (K99).

Date: June 22, 2016.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd, Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: May 19, 2016.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–12296 Filed 5–24–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–R–2016–N081; FXGO1664091HCC0–FF09D00000–167]

Wildlife and Hunting Heritage Conservation Council; Public Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a public meeting of the Wildlife and Hunting Heritage Conservation Council (Council). The Council provides advice about wildlife and habitat conservation endeavors that benefit wildlife resources; encourage partnership among the public, sporting conservation organizations, States, Native American tribes, and the Federal Government; and benefit recreational hunting.

DATES: *Meeting:* Wednesday, June 22, 2016, from 10:30 a.m. to 4 p.m., and Thursday, June 23, 2016, from 8 a.m. to 1 p.m. (Eastern Standard Time). For deadlines and directions on registering to attend, submitting written material, and giving an oral presentation, please see "Public Input" under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held at the National Wild Turkey Federation Visitor Center, 770 Augusta Road, Edgefield, South Carolina, 29824.

FOR FURTHER INFORMATION CONTACT: Joshua Winchell, Council Designated Federal Officer, U.S. Fish and Wildlife Service, National Wildlife Refuge System, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone: (703) 358–2639; or email: *joshua_winchell@fws.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that the Wildlife and Hunting Heritage Conservation Council will hold a meeting.

Background

Formed in February 2010, the Council provides advice about wildlife and habitat conservation endeavors that:

1. Benefit wildlife resources;
2. Encourage partnership among the public, sporting conservation organizations, States, Native American tribes, and the Federal Government; and
3. Benefit recreational hunting.

The Council advises the Secretary of the Interior and the Secretary of Agriculture, reporting through the Director, U.S. Fish and Wildlife Service (Service), in consultation with the Director, Bureau of Land Management (BLM); Director, National Park Service (NPS); Chief, Forest Service (USFS); Chief, Natural Resources Conservation Service (NRCS); and Administrator, Farm Services Agency (FSA). The Council's duties are strictly advisory and consist of, but are not limited to, providing recommendations for:

1. Implementing the Recreational Hunting and Wildlife Resource Conservation Plan—A Ten-Year Plan for Implementation;
2. Increasing public awareness of and support for the Wildlife Restoration Program;
3. Fostering wildlife and habitat conservation and ethics in hunting and shooting sports recreation;
4. Stimulating sportsmen and women's participation in conservation and management of wildlife and habitat resources through outreach and education;
5. Fostering communication and coordination among State, tribal, and Federal governments; industry; hunting and shooting sportsmen and women; wildlife and habitat conservation and management organizations; and the public;
6. Providing appropriate access to Federal lands for recreational shooting and hunting;
7. Providing recommendations to improve implementation of Federal conservation programs that benefit wildlife, hunting, and outdoor recreation on private lands; and
8. When requested by the Designated Federal Officer in consultation with the Council Chairperson, performing a variety of assessments or reviews of policies, programs, and efforts through the Council's designated subcommittees or workgroups.

Background information on the Council is available at *http://www.fws.gov/whhcc.*

Meeting Agenda

The Council will convene to consider issues including:

1. Wildlife habitat and health;
2. Funding for public lands and wildlife management;
3. Endangered Species Act; and
4. Other Council business.

The final agenda will be posted on the Internet at *http://www.fws.gov/whhcc.*

Public Input

If you wish to	You must contact the Council Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**) no later than
Attend the meeting	June 9, 2016.
Submit written information or questions before the meeting for the council to consider during the meeting.	June 9, 2016.
Give an oral presentation during the meeting	June 9, 2016.

Attendance

To attend this meeting, register by close of business on the dates listed in "Public Input" under **SUPPLEMENTARY INFORMATION.** Please submit your name, time of arrival, email address, and phone number to the Council Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the Council to consider during the public meeting. Written statements must be received by the date in Public Input, so that the information may be made available to the Council for their consideration prior to this meeting. Written statements must be supplied to the Council Designated Federal Officer in both of the following formats: One hard copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file).

Giving an Oral Presentation

Individuals or groups requesting to make an oral presentation at the meeting will be limited to 2 minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact the Council Designated Federal Officer, in writing (preferably via email; see **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list for this meeting. Nonregistered public speakers will not be considered during the meeting. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Council Designated Federal Officer up to 30 days subsequent to the meeting.

Meeting Minutes

Summary minutes of the conference will be maintained by the Council Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). They will be available for public inspection within 90 days of the meeting, and will be posted on the Council's Web site at *http://www.fws.gov/whhcc.*

Stephen Guertin,

Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 2016–12322 Filed 5–24–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX16EE000101100]

Announcement of National Geospatial Advisory Committee Meeting

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of meeting.

SUMMARY: The National Geospatial Advisory Committee (NGAC) will meet on June 14–15, 2016 at the U.S. Department of Transportation (DOT) Building, 1200 New Jersey Avenue SE., Washington, DC 20590. The meeting will be held in the DOT Conference Center, in the Oklahoma Room. The NGAC, which is composed of representatives from governmental, private sector, non-profit, and academic organizations, has been established to advise the Chair of the Federal Geographic Data Committee on management of Federal geospatial programs, the development of the National Spatial Data Infrastructure, and the implementation of Office of Management and Budget (OMB) Circular A–16. Topics to be addressed at the meeting include:

—Leadership Dialogue
—FGDC Update
—NGAC Subcommittee Activities
—Emerging Technologies
—NSDI Strategic Plan Framework
—National Parcel Data

Members of the public who wish to attend the meeting must register in advance for clearance into the meeting site. Please register by contacting Lucia Foulkes at the Federal Geographic Data Committee (703–648–4142, *lfoulkes@usgs.gov*). Registrations are due by June 10, 2016. While the meeting will be open to the public, registration is required for entrance to the Department of Transportation Building, and seating may be limited due to room capacity. The meeting will include an opportunity for public comment on June 15. Attendees wishing to provide public comment should register by June 10. Please register by contacting Lucia Foulkes at the Federal Geographic Data Committee (703–648–4142, *lfoulkes@usgs.gov*). Comments may also be submitted to the NGAC in writing.

DATES: The meeting will be held from 8:30 p.m. to 5:30 p.m. on June 14 and from 8:30 a.m. to 4:00 p.m. on June 15.

FOR FURTHER INFORMATION CONTACT: John Mahoney, U.S. Geological Survey (206–220–4621).

SUPPLEMENTARY INFORMATION: Meetings of the National Geospatial Advisory Committee are open to the public. Additional information about the NGAC and the meeting are available at *www.fgdc.gov/ngac.*

Kenneth Shaffer,

Deputy Executive Director, Federal Geographic Data Committee.

[FR Doc. 2016–12249 Filed 5–24–16; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORV00000.L10200000.DF0000. LXSSH1040000.16XL1109AF HAG 16–0139]

Notice of Public Meeting for the John Day-Snake Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory

Committee Act of 1972, and the U.S. Department of the Interior, Bureau of Land Management (BLM), the John Day-Snake Resource Advisory Council (RAC) will meet as indicated below:

DATES: The John Day-Snake RAC will hold a meeting Thursday and Friday, June 23 and 24, 2016, at the Imperial River Company in Maupin, Oregon. The Thursday meeting, June 23, will run from 12:00 p.m. to 5:00 p.m. On Friday, June 24, the meeting will run from 8 a.m. to noon. A public comment period will be offered the second day, June 24.

FOR FURTHER INFORMATION CONTACT: Larry Moore, Public Affairs Specialist, BLM Vale District Office, 100 Oregon St, Vale, Oregon 97918, phone (541) 473–6218, or email *l2moore@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1 (800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The John Day-Snake RAC consists of 15 members, chartered and appointed by the Secretary of the Interior. Their diverse perspectives are represented in commodity, conservation, and general interests. They provide advice to BLM and Forest Service resource managers regarding management plans and proposed resource actions on public land in central and eastern Oregon. Agenda items for the meeting include a discussion on fees associated with the Snake River, the Blue Mountain Forest Resiliency Project, the recreation economy, and invasive species as well as biological invasive species controls. Other topics may be posted along with the agenda on the John Day Snake RAC Web site at: *http://www.blm.gov/or/rac/jdrac_meetingnotes.php.*

All meetings are open to the public. Information to be distributed to the John Day-Snake RAC is requested prior to the start of each meeting. A public comment period will be offered on June 24, at a time to be determined. Unless otherwise approved by the John Day-Snake RAC Chairs, the public comment period in each meeting will last no longer than 30 minutes. Each speaker may address the John Day-Snake RAC for a maximum of 5 minutes. A public call-in number for both meeting locations is provided on the John Day-Snake RAC Web site at *http://www.blm.gov/or/rac/jdrac.php.*

Meeting times and the duration scheduled for public comment periods may be extended or altered when the authorized representative considers it necessary to accommodate business and all who seek to be heard regarding matters before the John Day-Snake RAC.

Shane DeForest,

Vale Associate District Manager.

[FR Doc. 2016–12335 Filed 5–24–16; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–21064; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before May 7, 2016, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by June 9, 2016.

ADDRESSES: Comments may be sent via U.S. Postal Service to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before May 7, 2016. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

ARIZONA

Maricopa County

Adelman, Benjamin House, 5802 N. 30th St., Phoenix, 16000380

CALIFORNIA

San Mateo County

X–100, 1586 Lexington Ave., San Mateo, 16000381

GEORGIA

DeKalb County

Decatur Heights—Glennwood Estates—Sycamore Street Historic District, Roughly Bounded by Forkner Dr., Sycamore Dr., Sycamore St., and the E. boundary of Decatur Cemetery, Decatur, 16000382

ILLINOIS

Cook County

America Fore Building, 844 N. Rush St., Chicago, 16000383

IOWA

Polk County

Register and Tribune Building, 715 Locust St., Des Moines, 16000385

MINNESOTA

Hennepin County

Wayzata Bay Wreck, (Wrecks and Submerged Cultural Resources of Lake Minnetonka MPS) Address Restricted, Minnetonka, 16000386

NEW JERSEY

Cape May County

Dennisville Historic District (Boundary Increase), Roughly bounded by Gatzmer Ave., RR. tracks, NJ 47, and N. side of Petersburg Rd. and NJ 47, Dennis Township, 16000387

NEW MEXICO

McKinley County

Gallup Commercial Historic District, Roughly bounded by US 66, W. Coal Ave., S. Puerco Dr. and S. 7th St., Gallup, 16000389

Santa Fe County

Lamy Junction Archeological District, Address Restricted, Lamy, 16000388

NEW YORK

Cortland County

Crescent Corset Company, 166–177 Main St., Cortland, 16000391

Erie County

Hayes, Edmund B., Hall, 3435 Main St., Buffalo, 16000394

Lewis County

Leyden Common School No. 2, 6606 School Rd., Talcottville, 16000392

Otsego County

Vibber, Lemuel F., House, 302 Butternut Rd., Richfield, 16000393

Sullivan County

Callicoon Downtown Historic District, Main Sts, Highview & Mitchell Aves., River &

Hospital Rds., Bridge St., and NY 97, Callicoon, 16000390

RHODE ISLAND

Providence County

American Brewing Company Plant, 431 Harris Ave., Providence, 16000395

SOUTH CAROLINA

Jasper County

Tillman School, 191 Cotton Hill Rd.—US 321, Tillman, 16000396

Authority: 60.13 of 36 CFR part 60.

Dated: May 10, 2016.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2016–12271 Filed 5–24–16; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–21049; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before April 30, 2016, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by June 9, 2016.

ADDRESSES: Comments may be sent via U.S. Postal Service to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before April 30, 2016. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

CALIFORNIA

Los Angeles County

Rockhaven Sanitarium Historic District, 2713 Honolulu Ave. bounded by Pleasure Way, Hermosa & Honolulu Aves., Glendale, 16000355

Napa County

Yountville Grammar School, 6550 Yount St., Yountville, 16000356

Riverside County

First Church of Christ, Scientist, (Architecture of Albert Frey MPS) 605 S. Riverside Dr., Palm Springs, 16000357

San Francisco County

USS CONESTOGA (shipwreck and remains), Address Restricted, San Francisco, 16000358

FLORIDA

Miami-Dade County

Ace Theatre, 3664 Grand Ave., Miami, 16000359

Palm Beach County

West Palm Beach Fishing Club, 201 5th St., West Palm Beach, 16000360

St. Johns County

Fountain of Youth Archeological Park, 11 Magnolia Ave., St. Augustine, 16000361

GUAM

Guam County

Manenggon Concentration Camp, Address Restricted, Yona Municipality, 16000362

IOWA

Polk County

Apperson—Iowa Motor Car Company Building, 1420 Locust St., Des Moines, 16000363
Jones, G.W., Building, 1430 Locust St., Des Moines, 16000364

Wapello County

Greater Second Street Historic District, 201–315 E. 2nd, 116 N. Green, 109 S. Green & 106–112 N. Market, Ottumwa, 16000365

MISSOURI

Barry County

McMurtry Spring and Trail of Tears Roadbed Segment, (Cherokee Trail of Tears in Missouri MPS) Address Restricted, Cassville, 16000366

NEW YORK

Rensselaer County

Central Troy Historic District (Boundary Increase), Adams, 1st, 4th, Washington & Hill Sts., Franklin Pl., 5th Ave., Troy, 16000367

NORTH DAKOTA

McIntosh County

Zeeland Hall, (Federal Relief Construction in North Dakota, 1931–1943, MPS) 211 S. Main Ave., Zeeland, 16000368

OKLAHOMA

Atoka County

Dunbar School, NE. corner of OK 3 and S. Dunbar St., Atoka, 16000369

Garfield County

Carrier Congregational Church, 204 N. 5th St., Carrier, 16000370
Marshall County
Oakland School, NW. corner of Fern & N. 8th Sts., Oakland, 16000373

Oklahoma County

Edmond Ice Company, 101–109 W. 2nd St., Edmond, 16000371
Electric Transformer House, 2412 N. Olie Ave., Oklahoma City, 16000372
Sunshine Cleaners, 1002 NW. 1st St., Oklahoma City, 16000374
Tiffany House, 5505 N. Brookline Ave., Oklahoma City, 16000375

Texas County

Hotel Dale, 118 NW. 6th St., Guymon, 16000376

WISCONSIN

Iowa County

Wyoming Valley School, 6306 WI 23, Wyoming, 16000377

Juneau County

Bierbaurer, Henry and Barbara, House, 970 S. Monroe St., New Lisbon, 16000379

Milwaukee County

Peck, George W., Row House, 1620–1630 N. Farwell Ave., Milwaukee, 16000378

A request to move has been received for the following resource:

IOWA

Mitchell County

Cedar Valley Seminary, N. 6th and Mechanic Sts., Osage, 77000541

Authority: 60.13 of 36 CFR part 60.

Dated: May 6, 2016.

Roger Reed,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2016–12269 Filed 5–24–16; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–20988; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before April 23, 2016, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by June 9, 2016.

ADDRESSES: Comments may be sent via U.S. Postal Service to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th Floor, Washington, DC 20005; or by fax, 202–371–6447.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before April 23, 2016. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

ARKANSAS

Cleburne County

Gunn, O.D., Trade and Sale Barn, 10 Anna St., Quitman, 16000316

Garland County

First Methodist Church Christian Education Building, 1100 Central Ave., Hot Springs, 16000317

Lawrence County

Walnut Ridge Army Airfield Access Road, Roughly bounded by US 67 & jct. of Fulbright Ave. & Stafford Ln., College City, 16000318

Pulaski County

Kleinschmidt, Gustave B., House, 621 E. 16th St., Little Rock, 16000319

Sebastian County

Chambers, Oscar, House, 3200 S. Dallas St., Fort Smith, 16000320

Sharp County

Little Springs Missionary Baptist Church, 4040 AR 58, Poughkeepsie, 16000321

CALIFORNIA

Los Angeles County

Renwick, Helen Goodwin, House, 211 N. College Ave., Claremont, 16000322

FLORIDA

St. Johns County

Milam, Arthur, House, 1033 Ponte Vedra Blvd., Ponte Vedra Beach, 16000323

ILLINOIS

Kane County

Garfield Farm and Garfield Tavern (Boundary Increase), 39W926/958 IL 38, Campton Hills, 16000326

McLean County

Van Leer, Margaret and Bird, Broadview Mansion, 1301 S. Fell Ave., Normal, 16000327

Mercer County

Downtown Aledo Historic District, 100–200 blks. N. College, 100, 200, 300 blks. S. College, 100 blk. NW., 2nd, 200 blk. SW. 2nd Aves., Aledo, 16000328

Stephenson County

Freeport City Hall, 230 W. Stephenson, Freeport, 16000329

INDIANA

Jackson County

Shields' Mill Covered Bridge, Shields Rd. across E. Fork of White R., Brownstown, 16000330

Jasper County

Halleck, Charles, Student Center, (Modern Architecture of Rensselaer, Indiana MPS) Father Gross Rd., Rensselaer, 16000331

Rank, Hugh and Leona, House, (Modern Architecture of Rensselaer, Indiana MPS) 975 Winding Rd., Rensselaer, 16000332

Schwietermann Hall, (Modern Architecture of Rensselaer, Indiana MPS) Schuster Rd., Rensselaer, 16000333

Jefferson County

Allen, Lemuel, Farm, 3768 E. Pleasant Ridge Rd., Madison, 16000334

Wolf, Mathias, Farm, 4137 E. Pleasant Ridge Rd., Madison, 16000335

Marion County

Hubbard, Willard and Josephine, House, 1941 N. Delaware St., Indianapolis, 16000336

Marshall County

Norris Farm—Maxinkuckee Orchard, 18799 Peach Rd., Culver, 16000337

MAINE

Cumberland County

Little Mark Island Monument, N. Casco Bay at mouth of Merriconeag Sound, Harpswell, 16000338

MICHIGAN

Marquette County

Presque Isle Harbor Breakwater Light, (Light Stations of the United States MPS) In L. Superior on breakwater at NE. side of Presque Isle Harbor, Marquette, 16000339

MINNESOTA

St. Louis County

Duluth Harbor North Pier Light, (Light Stations of the United States MPS) In L. Superior at E. end of Duluth Ship Canal N. pier, Duluth, 16000340

Duluth Harbor South Breakwater Outer Light, (Light Stations of the United States MPS) In L. Superior at E. end of Duluth Harbor Ship Canal S. Breakwater, Duluth, 16000341

MISSOURI

Greene County

Trail of Tears Roadbed Segment on Josiah Danforth Farm, (Cherokee Trail of Tears in Missouri MPS) Address Restricted, Strafford, 16000342

Ralls County

Ilasco Historic District, 10998 Ilasco Trail, Hannibal, 16000343

NEW YORK

Niagara County

South Junior High School, 561 Portage Rd., Niagara Falls, 16000344

Ontario County

Canandaigua Historic District (Boundary Increase), Catherine, Dungan, Brook, Hubble & Sly Sts., portions of Park, Wood, Washington, Howell, Bemis, Main & Gibson Sts., Canandaigua, 16000345

OREGON

Multnomah County

Hamlin, Charles Hunter, House, 1322 SE. 282nd Ave., Gresham, 16000346

Wasco County

Antelope School, 45500 McGreer St., Antelope, 16000347

TEXAS

Bowie County

Hotel Grim, 301 N. State Line Ave., Texarkana, 16000348

Childress County

Childress Commercial and Civic Historic District, Roughly bounded by 3rd St., NW., Aves. A & I, 2nd St., NE., Fair Park & 810 Ave. I NE., Childress, 16000349

Harris County

Cheek—Neal Coffee Company Building, 2017 Preston, Houston, 16000350

Jackson County

Allen Memorial Presbyterian Church, 301 W. Church St., Edna, 16000351

Midland County

Vaughn Building, 400 W. Texas Ave., Midland, 16000352

Tarrant County

Fortune Arms Apartments, 601 W. 1st St., Fort Worth, 16000353

Travis County

Lions Municipal Golf Course, 2901 Enfield Rd., Austin, 16000354

A request to move has been received for the following properties:

ARKANSAS

Columbia County

Old Alexander House, NE. of Magnolia, Magnolia, 79000435

Ozmer House, Southern Arkansas University farm, US 82 Bypass, Magnolia, 86003226

Washington County

Washington County Road 35 Bridge, (Historic Bridges of Arkansas MPS) Co. Rd. 35, Woolsey, 00000637

Authority: 60.13 of 36 CFR part 60.

Dated: April 29, 2016.

Roger Reed,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2016–12270 Filed 5–24–16; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Inflatable Products and Processes for Making the Same, DN 3149;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Intex Recreation Corp. and Intex Marketing Ltd. on May19, 2016. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain inflatable products and processes for making the same. The complaint names as respondents Bestway (USA), Inc. of Phoenix, AZ; Bestway Global Holdings, Inc. of China; Bestway (Hong Kong) International, Ltd. of Hong Kong; Bestway Inflatables & Materials Corporation of China; and Bestway (Nantong) Recreation Corp. of China. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number ("Docket No. 3149") in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures[4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

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[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

By order of the Commission.

Issued: May 19, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–12282 Filed 5–24–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJP) Docket No. 1713]

Office of Justice Programs Science Advisory Board; Call for Nominations

AGENCY: Office of Justice Programs (OJP), Justice.

ACTION: Notice.

SUMMARY: The Office of Justice Programs (OJP), U.S. Department of Justice, proposes to appoint new members to the OJP Science Advisory Board ("the Board"). The Assistant Attorney General, acting as administrative lead, is requesting nominations for qualified persons to serve as members of the Board.

DATES: Nominations must be post marked by June 30, 2016.

ADDRESSES: Nominations should be sent to Katherine Darke Schmitt, Designated Federal Official (DFO), by regular/express mail: Office of Justice Programs, Office of the Assistant Attorney General, 810 7th Street NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Katherine Darke Schmitt, DFO, Office of the Assistant Attorney General, Office of Justice Programs, 810 7th Street Northwest, Washington, DC 20531; Phone: (202) 616–7373 [Note: This is not a toll-free number]; Email: *katherine.darke@usdoj.gov.*

SUPPLEMENTARY INFORMATION: The Board provides OJP's Assistant Attorney General with valuable advice in the areas of social science and statistics for the purpose of enhancing the overall impact and performance of its programs and activities in the areas of criminal and juvenile justice. The Board may advise on program development and recommend guidance to assist in OJP's adherence to the highest levels of scientific rigor as appropriate. The Board provides an important base of contact with the criminal justice and juvenile justice academic and practitioner communities. More information about the composition and responsibilities of the Board is available at: *http://ojp.gov/sab.htm.*

Prospective members of the Board need to be experienced practitioners in the field of criminal justice, public safety, or juvenile justice; or researchers or statisticians in those fields. At this time, we are particularly interested in applications from senior practitioners in State public safety agencies.

After consideration of the nominations, the Attorney General will appoint one or more new members to the Board. The Attorney General will select members based on their individual qualifications, as well as the overall need to achieve a balanced representation of viewpoints, subject matter expertise, regional knowledge, and representation of communities of interest. Nominees will be appointed to an initial term of four (4) years beginning in spring, 2017. Following completion of their first term, a Board member may request consideration for reappointment to an additional term. Reappointment is not guaranteed.

Typically, the Board meets twice per year (spring and fall) in Washington, DC Between these meetings, Board subcommittees are expected to work via conference calls and email exchanges. Members of the Board and its subcommittees serve without pay. However, while away from their homes or regular places of business in the performance of services of the Board, members may be reimbursed for travel expenses, including per diem.

Individuals who are federally registered lobbyists are ineligible to serve on all Federal Advisory Committee Act (FACA) and non-FACA boards, committees, or councils in an individual capacity.

Submitting Nominations: Nominations should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of Justice to make an informed decision regarding meeting the membership requirements of the Board and permit the Department of Justice to contact a potential member.

Any interested person or entity may nominate one or more qualified individuals for membership on the Board. Self-nominations are also accepted. Persons or entities submitting nomination packages on the behalf of others must confirm that the individual(s) is/are aware of their nomination.

Katherine Darke Schmitt,

Senior Policy Advisor and SAB DFO, Office of the Assistant Attorney General, Office of Justice Programs.

[FR Doc. 2016–12311 Filed 5–24–16; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2016–0001]

National Advisory Committee on Occupational Safety and Health (NACOSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Announcement of a NACOSH meeting.

SUMMARY: NACOSH will meet June 15, 2016, in Washington, DC. In conjunction with the committee meeting, the NACOSH Injury and Illness Prevention Program Work Group will meet June 14, 2016.

DATES: *NACOSH meeting:* NACOSH will meet from 9 a.m. to 5 p.m., Wednesday, June 15, 2016.

NACOSH Work Group meeting: The NACOSH Injury and Illness Prevention Program Work Group will meet from 1 p.m. to 5 p.m., Tuesday, June 14.

Comments, requests to speak, speaker presentations, and requests for special accommodations: You must submit (postmark, send, transmit) comments, requests to address NACOSH, speaker presentations, and requests for special accommodations for the NACOSH and NACOSH Work Group meetings by June 3, 2016.

ADDRESSES: *NACOSH and NACOSH Work Group meetings:* NACOSH and the NACOSH Work Group will meet in Surface Transportation Board Hearing Room 120C, Patriots Plaza I, 395 E. Street SW., Washington, DC 20024.

Submission of comments, requests to speak and speaker presentations: You may submit comments and request to speak at the NACOSH meeting, identified by the docket number for this **Federal Register** notice (Docket No. OSHA–2016–0001), by one of the following methods:

Electronically: You may submit materials, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for making submissions.

Facsimile: If your submission, including attachments, does not exceed 10 pages, you may fax it to the OSHA Docket Office at (202) 693–1648.

Regular mail, express mail, hand delivery, or messenger/courier service (hard copy): You may submit your materials to the OSHA Docket Office, Docket No. OSHA–2016–0001, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2350 (TTY (887) 889–5627). OSHA's Docket Office accepts deliveries (hand deliveries, express mail, and messenger/courier service) during normal business hours, 8:15 a.m. to 4:45 p.m. e.t., weekdays.

Requests for special accommodations: Please submit requests for special accommodations to attend the NACOSH and NACOSH Work Group meetings by email, telephone, or hard copy to Ms. Gretta Jameson, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999 (TTY (887) 889–5627); email *jameson.grettah@dol.gov.*

Instructions: Your submissions must include the Agency name and the docket number for this **Federal Register** notice (Docket No. OSHA–2016–0001). Due to security-related procedures, receipt of submissions by regular mail may experience significant delays. Please contact the OSHA Docket Office for information about security procedures for making submissions by hand delivery, express delivery, or messenger/courier service. For additional information about submissions, see the **SUPPLEMENTARY INFORMATION** section of this notice.

OSHA will post in the NACOSH docket, without change, any comments, requests to speak, and speaker presentations, including any personal information that you provide. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* Ms. Nancy Cleeland, Acting Director, OSHA Office of Communications, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999 (TTY (877) 889–5627); email *cleeland.nancy@dol.gov.*

For general information: Ms. Michelle Walker, Director, OSHA Technical Data Center, Directorate of Technical Support and Emergency Management, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2350 (TTY (877) 889–5627); email *walker.michelle@dol.gov.*

SUPPLEMENTARY INFORMATION: *NACOSH meeting:* NACOSH will meet Wednesday, June 15, 2016, in Washington, DC. Some NACOSH members may attend the meeting by teleconference. NACOSH meetings are open to the public.

NACOSH was established by Section 7(a) of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651, 656) to advise, consult with and make recommendations to the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the OSH Act. NACOSH is a continuing advisory committee of indefinite duration.

NACOSH operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), its implementing regulations (41 CFR part 102–3), and OSHA's regulations on NACOSH (29 CFR part 1912a).

The tentative agenda for the NACOSH meeting includes:

- An update from the Assistant Secretary of Labor for Occupational Safety and Health on key OSHA initiatives;
- Remarks from the Director of the National Institute for Occupational Safety and Health;
- Update on OSHA's major regulatory activities;
- Report from the NACOSH Emergency Response Subcommittee; and
- Update on the NACOSH Injury and Illness Prevention Program Work Group meeting.

OSHA transcribes and prepares detailed minutes of NACOSH meetings. OSHA posts the transcripts and minutes in the public docket along with written comments, speaker presentations, and other materials submitted to NACOSH or presented at NACOSH meetings.

NACOSH Work Group meeting: The NACOSH Injury and Illness Prevention Program Work Group will meet Tuesday, June 14, 2016. The meeting is open to the public. The purpose of the meeting is to discuss workplace safety and health issues regarding contractors at multi-employer worksites, including workplace protections and best practices as part of injury and illness prevention programs. There will also be a discussion on efforts to promote the occupational safety and health profession.

Public Participation, Submissions and Access to Public Record

NACOSH and NACOSH Work Group meetings: All NACOSH and NACOSH Work Group meetings are open to the public. Attendees must have valid government-issued photo identification (*e.g.,* driver's license) to enter the building. For additional information about building security measures for attending the NACOSH and NACOSH Work Group meetings, please contact Ms. Jameson (see **ADDRESSES** section).

Individuals requesting special accommodations to attend the NACOSH and NACOSH Work Group meetings should contact Ms. Jameson.

Submission of comments: You may submit comments using one of the methods listed in the **ADDRESSES** section. Your submission must include the Agency name and docket number for this **Federal Register** notice (Docket No. OSHA–2016–0001). OSHA will provide copies of any submissions to the NACOSH members.

Because of security-related procedures, receipt of submissions by regular mail may experience significant delays. For information about security procedures for submitting materials by hand delivery, express mail, and messenger/courier service, please contact the OSHA Docket Office.

Requests to speak and speaker presentations: If you want to address NACOSH at the meeting you must submit a request to speak, as well as any written or electronic presentation, by June 3, 2016, using one of the methods listed in the **ADDRESSES** section. Your request must state:

- The amount of time requested to speak;
- The interest you represent (*e.g.,* business, organization, affiliation), if any; and
- A brief outline of the presentation.

PowerPoint presentations and other electronic materials must be compatible with PowerPoint 2010 and other Microsoft Office 2010 formats. The NACOSH Chair may grant requests to address NACOSH as time and circumstances permit.

Public docket of NACOSH meetings: OSHA places comments, requests to speak, and speaker presentations, including any personal information you provide, in the NACOSH docket, without change. Those documents also may be available online at *http://www.regulations.gov.* Therefore, OSHA cautions you about submitting certain personal information such as Social Security numbers and birthdates.

OSHA also places in the NACOSH docket meeting transcripts, meeting minutes, documents presented at the NACOSH meeting, and other documents pertaining to the NACOSH and NACOSH Work Group meetings. These documents may be available online at *http://www.regulations.gov.*

Access to the public record of NACOSH meetings: To read or download documents in the NACOSH docket, go to Docket No. OSHA–2016–0001 at *http://www.regulations.gov.* The index for that Web page lists all of the documents in the docket; however, some documents (*e.g.,* copyrighted materials) are not publicly available through that Web page. All documents in the NACOSH docket, including materials not available through *http://www.regulations.gov,* are available in the OSHA Docket Office. Please contact the OSHA Docket Office for assistance in making submissions to, or obtaining materials from, the NACOSH docket.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, also are available on OSHA's Web page at *http://www.osha.gov.*

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by 29 U.S.C. 656; 5 U.S.C. App. 2; 29 CFR part 1912a; 41 CFR part 102–3; and Secretary of Labor's Order No. 1–2012 (77 FR 3912 (1/25/2012)).

Signed at Washington, DC, on May 19, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–12350 Filed 5–24–16; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Request: STEM Expert Facilitation of Family Learning in Libraries and Museums (STEMeX)—A National Leadership Grants Special Initiative

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Notice, request for comments, collection of information.

SUMMARY: The Institute of Museum and Library Service ("IMLS") as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This pre-clearance consultation program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this Notice is to solicit comments concerning the STEM Expert Facilitation of Family Learning in Libraries and Museums (STEMeX)—A National Leadership Grants Special Initiative.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before July 25, 2016.

The IMLS is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

ADDRESSES: For a copy of the documents contact: Sandra Toro, Senior Library Program Officer, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW., Suite 4000, Washington, DC 20024. Dr. Toro can be reached by telephone: 202–653–4662; fax: 202–653–4625; email: *storo@imls.gov* or by or by *teletype* (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services is the primary source of federal support for the Nation's 123,000 libraries and 35,000 museums. The Institute's mission is to inspire libraries and museums to advance innovation, learning and civic engagement. We provide leadership through research, policy development, and grant making. IMLS provides a variety of grant programs to assist the Nation's museums and libraries in improving their operations and enhancing their services to the public. (20 U.S.C. 9101 *et seq.*).

II. Current Actions

To administer the STEM Expert Facilitation of Family Learning in Libraries and Museums (STEMeX)—A National Leadership Grants Special Initiative. National Leadership Grants for Libraries (NLG-Libraries) and National Leadership Grants for Museums (NLG-Museums), under which this special initiative falls, support projects that address challenges faced by the library and museum fields and that have the potential to advance practice in those fields. Successful projects will generate results such as new tools, research findings, models, services, practices, or alliances that can be widely used, adapted, scaled, or replicated to extend the benefits of federal investment. This special joint NLG-Libraries and NLG-Museums initiative invites proposals for research on informal educational approaches that leverage community Science, Technology, Engineering, and Math (STEM) professionals in the broadest sense. Funded research projects will create a foundation for reaching children and families from diverse economic, social, and cultural backgrounds, with different levels of knowledge about STEM.

Agency: Institute of Museum and Library Services.

Title: STEM Expert Facilitation of Family Learning in Libraries and Museums (STEMeX)—A National Leadership Grants Special Initiative.

OMB Number: TBD.

Agency Number: 3137.

Frequency: One time.

Affected Public: Libraries, agencies, institutions of higher education, museums, and other entities that advance the museum and library fields and that meet the eligibility criteria.

Number of Respondents: 37.

Estimated Time per Respondent: 40 hours.

Total Burden Hours: 1,480.

Total Annualized cost to respondents: $43,805.

Total Annualized capital/startup costs: 0.

Total Annualized Cost to Federal Government: $7,608.

Public Comments Invited: Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Stephanie Burwell, Chief Information Officer, Office of the Chief Information Officer, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW., Suite 4000, Washington, DC 20024–2135. Mrs. Burwell can be reached by Telephone: 202–653–4684, Fax: 202–653–4625, or by email at *sburwell@imls.gov* or by teletype (TTY/TDD) at 202–653–4614. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

Dated: May 20, 2016.

Kim A. Miller,

Grants Specialist (Detailee), Office of the Chief Financial Officer.

[FR Doc. 2016–12305 Filed 5–24–16; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL SCIENCE FOUNDATION

Comment Request: Antarctic Conservation Act Application Permit Form

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewed clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than 3 years.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be received by July 25, 2016 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 1265, Arlington, VA 22230, or by email to *splimpto@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (703) 292–7556 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: "Antarctic Conservation Act Application Permit Form."

OMB Approval Number: 3145–0034.

Expiration Date of Approval: August 31, 2016.

Type of Request: Intent to seek approval to extend an information collection for three years.

Proposed Project: The current Antarctic Conservation Act Application Permit Form (NSF 1078) has been in use for several years. The form requests general information, such as name, affiliation, location, etc., and more specific information as to the type of object to be taken (plant, native mammal, or native bird).

Use of the Information

The purpose of the regulations (45 CFR 670) is to conserve and protect the native mammals, birds, plants, and invertebrates of Antarctica and the ecosystem upon which they depend and to implement the Antarctic Conservation Act of 1978, Public Law 95–541, as amended by the Antarctic Science, Tourism, and Conservation Act of 1996, Public Law 104–227.

Burden on the Public: The Foundation estimates about 25 responses annually at 45 minutes per response; this computes to approximately 11.25 hours annually.

Dated: May 19, 2016.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2016–12246 Filed 5–24–16; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0001]

Sunshine Act Meeting Notice

DATE: May 23, 2016.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of May 30, 2016

Thursday, June 2, 2016

8:55 a.m. Affirmation Session (Public Meeting) (Tentative)

a. Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Appeal of LBP–15–27 (Tentative)

b. Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3)—Petitions for Review of LBP–11–17 and LBP–10–13 (Tentative)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at:*http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: May 23, 2016.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2016–12465 Filed 5–23–16; 4:15 pm]

BILLING CODE 7590–01–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* May 25, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 19, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service To Add Priority Mail Contract 217 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–134, CP2016–171.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–12256 Filed 5–24–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* May 25, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 19, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 215 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–132, CP2016–169.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–12255 Filed 5–24–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* May 25, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 19, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service To Add Priority Mail Contract 218 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–135, CP2016–172.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–12258 Filed 5–24–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* May 25, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 19, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 216 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–133, CP2016–170.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–12254 Filed 5–24–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* May 25, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 19, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 219 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–136, CP2016–173.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–12257 Filed 5–24–16; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77855; File No. SR–NASDAQ–2016–057]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend and Clarify Closed-End Funds Annual Fees

May 19, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 12, 2016, The NASDAQ Stock Market LLC ("Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to clarify and conform the amount of annual fees charged to individual closed-end management investment companies registered under the Investment Company Act of 1940, as amended ("Closed-End Funds") and two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended ("fund family"). These amendments are effective upon filing. The text of the proposed rule change is set forth below. Proposed new language is in italics; deleted text is in brackets.

* * * * *

5910. The Nasdaq Global Market (Including the Nasdaq Global Select Market)

(a)–(c) No change.

(d) Standard Annual Fee—American Depositary Receipts (ADRs) and Closed-End Funds

(1)–(3) No change.

(4) For the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent information held by Nasdaq. The maximum annual fee applicable to a fund family shall not exceed [$75,000]*$80,000.* For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(5)–(6) No change.

(e)–(f) No change.

IM–5910–1. All-Inclusive Annual Listing Fee

(a)–(c) No change.

(d) The All-Inclusive Annual Listing Fee will be calculated *on total shares outstanding* according to the following schedules:

(1)–(2) No change.

(3) Closed-end Funds:

Up to 50 million shares—$30,000
50+ to 100 million shares—$50,000
100+ to 250 million shares—$75,000
Over 250 million shares—$100,000

For the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent information held by Nasdaq. A fund family is subject to the same fee schedule as a single Closed-End Fund and the maximum All-Inclusive Annual Listing Fee applicable to a fund family shall not exceed $100,000. For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(e) No change.

5920. The Nasdaq Capital Market

(a)–(b) No change.

(c) Standard Annual Fee

(1)–(6) No change.

(7) Notwithstanding paragraph (6), for the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market and the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent information held by Nasdaq. The maximum annual fee applicable to a fund family shall not exceed [$75,000]*$80,000.* For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(8) No change.

(d)–(e) No change.

IM–5920–1. All-Inclusive Annual Listing Fee

(a)–(c) No change.

(d) The All-Inclusive Annual Listing Fee will be calculated *on total shares outstanding* according to the following schedules:

(1)–(2) No change.

(3) Closed-end Funds:

Up to 50 million shares—$30,000
50+ to 100 million shares—$50,000
100+ to 250 million shares—$75,000
Over 250 million shares—$100,000

For the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent information held by Nasdaq. A fund family is subject to the same fee schedule as a single Closed-End Fund and the maximum All-Inclusive Annual Listing Fee applicable to a fund family shall not exceed $100,000. For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(e) No change.

* * * * *

The text of the proposed rule change is available on the Exchange's Website at *http://nasdaq.cchwallstreet.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to clarify and conform the amount of annual fees charged to a single Closed-End Fund and a fund family.

In 2005, Nasdaq adopted a fee schedule applicable specifically to Closed-End Funds and permitted a fund sponsor to aggregate the shares outstanding of all Closed-End Funds listed on Nasdaq that are part of the fund family.[3] The maximum annual fee payable by a fund family was set to $75,000, equal to the maximum annual fee payable by a single Closed-End Fund.

In 2014, Nasdaq adopted a new All-Inclusive Annual Listing Fee schedule and increased the maximum annual fee payable by a single Closed-End Fund.[4] At that time, Nasdaq inadvertently created a disparity between the maximum annual fees payable by a single Closed-End Fund and by a fund family. While Nasdaq increased the maximum annual fee payable by a single Closed-End Fund from $75,000 to $80,000 and introduced a new All-Inclusive Annual Listing Fee schedule with the maximum annual fee payable by a single Closed-End Fund equal to $100,000,[5] the maximum annual fee payable by a fund family under the standard annual fee was not changed and remained at $75,000. In addition, rules specifically allowing for the aggregation of shares in a fund family were not included in the new All-Inclusive Annual Fee.

Nasdaq proposes to amend Listing Rules 5910(d)(4) and 5920(c)(7) to increase the maximum annual fee payable by a fund family to $80,000 to conform such fee to the maximum annual fee payable by a single Closed End Fund. The creation of this disparity between the fees was inadvertent and Nasdaq believes that it is reasonable for a fund family to be subject to the same maximum fee schedule than a single Closed-End Fund.

In addition, Nasdaq proposes to amend Listing Rules IM–5910–1 and IM–5920–1 to clarify that a fund family subject to the All-Inclusive Annual Fee can aggregate shares in the same manner as a fund family subject to Nasdaq's standard annual fee. Nasdaq also proposes to clarify that the All-Inclusive Annual Listing Fee is calculated on total shares outstanding.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As a preliminary matter, Nasdaq competes for listings with other national securities exchanges and companies can easily choose to list on, or transfer to, those alternative venues. As a result, the fees Nasdaq can charge listed companies are constrained by the fees charged by its competitors and Nasdaq cannot charge prices in a manner that would be unreasonable, inequitable, or unfairly discriminatory.

Nasdaq believes that the proposed increase in the annual maximum fee payable by a fund family is reasonable and not unfairly discriminatory because such fee is not greater than the fee payable by a single Closed-End Fund that could be a part of the same fund family. The parity in such fees had previously been approved by the Commission.[8] The proposed rule change makes no adjustments to the fee schedule applicable to the Closed-End Funds.

Nasdaq also believes that the proposed additional interpretive material merely clarifies, without changing the substance of the rules, Nasdaq's current position that a fund family subject to the All-Inclusive Annual Listing Fee schedule is subject to the same fee schedule as a single Closed-End Fund. These companies are particularly sensitive to the expenses they incur, given that they compete for investment dollars based on return. In addition, Closed-End Funds need to issue shares as a primary means to expand their businesses and raise additional money to invest. As such, Nasdaq believes that allowing a fund family to aggregate the shares outstanding of all Closed-End Funds listed on Nasdaq that are part of the fund family is reasonable and not inequitable or unfairly discriminatory.

Finally, Nasdaq believes that the proposed fees are consistent with the investor protection objectives of Section 6(b)(5) of the Act[9] in that they are designed to promote just and equitable principles of trade, to remove impediments to a free and open market and national market system, and in general to protect investors and the public interest. Specifically, the fees are designed, in part, to ensure that there are adequate resources for Nasdaq's listing compliance program, which helps to assure that listing standards are properly enforced and investors are protected.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The market for listing services is extremely competitive and listed companies may freely choose alternative venues based on the aggregate fees assessed, and the value provided by each listing. This rule proposal does not burden competition with other listing venues, which are similarly free to set their fees. Moreover, the proposed rule merely conforms fees charged to similarly situated Nasdaq listed Closed-End Funds and fund families. For these reasons, Nasdaq does not believe that the proposed rule change will result in any burden on competition for listings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

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[3] Securities Exchange Act Release No. 52277 (August 17, 2005), 70 FR 49347 (August 22, 2005) (approving SR–NASD–2005–96).

[4] Securities Exchange Act Release No. 73647 (November 19, 2014), 79 FR 70232 (November 25, 2014) (approving SR–NASDAQ–2014–87).

[5] *Id.*

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] *See* footnote 3, *supra.*

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2016–057 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2016–057. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2016–057 and should be submitted on or before June 15, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–12237 Filed 5–24–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77860; File No. SR–NYSE–2016–35]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 13 and Related Rules Regarding Market Orders

May 19, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on May 16, 2016, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II, below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 13 (Orders and Modifiers) and related rules regarding Market Orders. The proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 13 (Orders and Modifiers) and related rules relating to Market Orders. The proposed changes are designed to simplify the Exchange's offering of order types by harmonizing the behavior of Market Orders with how similar orders operate on NYSE Arca Equities, Inc. ("NYSE Arca Equities"), the Exchange's affiliated equities marketplace, and by eliminating specified combinations of orders and modifiers.[4]

Overview

Currently, Market Orders are defined in Rule 13(a)(1) as an order to buy or sell a stated amount of a security at the most advantageous price obtainable after the order is represented in the Trading Crowd or routed to Exchange systems. If a Market Order to sell has exhausted all eligible buy interest, any unfilled balance of the Market Order to sell will be cancelled. Market Orders may include an immediate-or-cancel ("IOC") time-in-force modifier.[5] In addition, a Market Order may include an instruction to either buy "minus" or sell "plus."[6]

The Exchange proposes to simplify how Market Orders would function on the Exchange by harmonizing the behavior of Market Orders with how they operate on the Pillar trading platform on NYSE Arca Equities and by eliminating the ability to combine a Market Order with an IOC, buy "minus," or sell "plus" instruction, which are not available on the NYSE Arca Equities trading platform. The Exchange believes that eliminating these order type combinations would streamline its rules and reduce complexity among its order type offerings.[7]

Proposed Amendments to Market Orders

To effect the proposed changes to how Market Orders would operate, the Exchange proposes to amend Rule 13(a)(1) to provide that a Market Order that is eligible for automatic execution would be an unpriced order to buy or sell a stated amount of a security that is to be traded at the best price obtainable without trading through the NBBO. This proposed rule text is based on the first sentence of NYSE Arca Equities Rule 7.31P(a)(1), which provides that a Market Order is an unpriced order to buy or sell a stated amount of a security that is to be traded at the best price obtainable without trading through the NBBO.

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[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] NYSE Arca Equities is a wholly-owned subsidiary of NYSE Arca, Inc., which is a national securities exchange.

[5] *See* Rule 13(b)(3).

[6] *See* Rule 13(f)(A) and (C).

[7] *See, e.g.,* Mary Jo White, Chair, Securities and Exchange Commission, Speech at the Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available at *www.sec.gov/News/Speech/Detail/Speech/1370542004312#.U5HI-fmwJiw).*

The Exchange proposes one difference for the NYSE version of the rule, which is to provide that the proposed definition is intended only for orders eligible for automatic execution. Rule 1000(a) provides that an automatically executing order shall receive an immediate, automatic execution against orders reflected in the Exchange published quotation and orders in the Exchange book. However, automatic executions are not available for securities if the closing price for a security, or if the security did not trade, the closing bid price of the security on the immediate previous trading day is $10,000 or more (*i.e.*, "high-priced securities").[8] Because the proposed new functionality relating to Market Orders would not be available for high-priced securities, the Exchange proposes to keep the current definition of Market Orders as proposed subsection (D) of Rule 13(a)(1) and specify that this subsection of the rule is only for Market Orders that are not eligible for automatic execution.

Proposed Rule 13(a)(1)(A) would define certain terms for purposes of Market Orders. Specifically, because the Exchange is proposing to adopt rule text based on NYSE Arca Equities Rule 7.31P(a)(1), which uses terms defined in the NYSE Arca Equities rules, the Exchange proposes to add the following defined terms to Rule 13:

- Proposed Rule 13(a)(1)(A)(i) would define the term "Away Market," for purposes of Market Orders, to mean any exchange with which the Exchange maintains an electronic linkage and which provides instantaneous responses to orders routed from the Exchange. This proposed definition is based on NYSE Arca Equities Rule 1.1(ffP), which defines the term "Away Market" to mean any exchange, alternative trading system ("ATS") or other broker-dealer (1) with which the NYSE Arca Marketplace maintains an electronic linkage and (2) which provides instantaneous responses to order routed from the NYSE Arca Marketplace. Because the Exchange does not route to any ATSs or other broker-dealers for execution, the Exchange would not include a reference to ATSs or broker-dealers in its definition of Away Market.
- Proposed Rule 13(a)(1)(A)(ii) would define the term "NBBO" to mean the national best bid or offer and the terms "NBB" to mean the national best bid and "NBO" to mean the national best offer. These proposed definitions are identical to those definitions in NYSE Arca Equities Rule 1.1(dd).
- Proposed Rule 13(a)(1)(A)(iii) would define the term "working price" to mean the price at which an order is eligible to trade at any given time. This proposed definition is based on NYSE Arca Equities Rule 7.36P(a)(3), which defines the term "working price" to mean the price at which an order is eligible to trade at any given time, which may be different from the limit price or display price of the order. The Exchange does not propose to include the last clause of the NYSE Arca Equities definition because the Exchange is proposing the definition of working price only for purposes of Market Orders, which do not include a limit price and which are not displayed.
- Proposed Rule 13(a)(1)(A)(iv) would define the term "MPV" to mean the minimum price variation for quoting and entry of orders as specified in Supplementary Material .10 to Rule 62. The Exchange uses the same pricing increments as NYSE Arca Equities.[9]

Proposed Rule 13(a)(1)(B) would specify how a Market Order would operate during continuous trading. The Exchange would specify how Market Orders would participate in auctions in proposed Rule 13(a)(1)(C), described in greater detail below.

As proposed in Rule 13(a)(1)(B)(i), a Market Order would be rejected on arrival or cancelled if resting if there is no contra-side NBBO or if the best protected quotations are or become crossed. This proposed rule text is based on the second sentence of NYSE Arca Equities Rule 7.31P(a)(1), which provides that a Market Order must be designated Day and will be rejected on arrival or cancelled if resting if there is no contra-side NBBO. Because of technology differences between how the Exchange operates and how NYSE Arca Equities operates on the Pillar trading platform, the Exchange proposes that if protected quotations are or become crossed, the Exchange would reject newly arriving Market Orders or cancel resting unexecuted Market Orders.

Proposed Rule 13(a)(1)(B)(ii) would provide that:

On arrival, a Market Order to buy (sell) is assigned a working price of the NBO (NBB) and will trade with all sell (buy) orders on the Exchange priced at or below (above) the NBO (NBB) before routing to the NBO (NBB) on an Away Market. The quantity of a Market Order to buy (sell) not traded or routed will remain undisplayed on the Exchange at a working price of the NBO (NBB) and be eligible to trade with incoming sell (buy) orders at that price. When the NBO (NBB) is updated, the Market Order to buy (sell) will be assigned a new working price of the updated NBO (NBB) and will trade with all sell (buy) orders on the Exchange priced at or below (above) the updated NBO (NBB) before routing to the updated NBO (NBB) on an Away Market. Such assessment will continue at each new contra-side NBBO until the order is filled or a Trading Collar is reached. If the NBBO becomes locked or crossed either on arrival or while the order is held undisplayed, the Market Order to buy (sell) will be assigned a working price of the NBB (NBO).

This proposed rule text is based on NYSE Arca Equities Rule 7.31P(a)(1)(A), which provides:

> On arrival, a Market Order to buy (sell) is assigned a working price of the NBO (NBB) and will trade with all sell (buy) orders on the NYSE Arca Book priced at or below (above) the NBO (NBB) before routing to the NBO (NBB) on an Away Market. The quantity of a Market Order to buy (sell) not traded or routed will remain undisplayed on the NYSE Arca Book at a working price of the NBO (NBB) and be eligible to trade with incoming sell (buy) orders at that price. When the updated NBO (NBB) is displayed, the Market Order to buy (sell) will be assigned a new working price of the updated NBO (NBB) and will trade with all sell (buy) orders on the NYSE Arca Book priced at or below (above) the updated NBO (NBB) before routing to the updated NBO (NBB) on an Away Market. Such assessment will continue at each new contra-side NBBO until the order is filled or a Trading Collar is reached. If the NBBO becomes locked or crossed while the order if held undisplayed, the Market Order to buy (sell) will be assigned a working price of the NBB (NBO).

The Exchange proposes a non-substantive difference to use the term "Exchange" instead of "NYSE Arca Book" in proposed Rule 13(a)(1)(B)(ii). The Exchange also proposes a change from the NYSE Arca Equities Rule to specify that a Market Order would be priced to the same-side NBBO when the NBBO is crossed both on arrival and when resting. To this point, as described above, if the protected quotations are crossed, a resting Market Order would be cancelled, which differs from current NYSE Arca Equities behavior. However, if the NBBO is crossed, but the best protected quotations are not crossed, the Exchange would price the Market Order based on the same-side NBBO, which is how Market Orders operate on NYSE Arca Equities.[10] Finally, the Exchange proposes a change from the NYSE Arca Equities rule to provide that a Market Order will be assigned a new working price when the NBBO is updated, and not when an updated NBBO is displayed. The proposed Exchange functionality is identical to that of NYSE Arca Equities, but the Exchange believes its proposed rule language clarifies that it would incorporate updates to the NBBO based on executions at the Exchange that have not yet been displayed.

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[8] *See* Rule 1000(a)(iii). There is currently one high-priced security listed on the Exchange, Berkshire Hathaway Inc. Class A (BRK–A). Automatic executions are also not available when trading in a security has been halted or if a block-sized transaction, as defined in Rule 127.10 that involves orders in the Exchange book is being reported manually. *See* Rule 1000(a)(i)–(ii).

[9] *See* NYSE Arca Equities Rule 7.6 (defining minimum price variation as $0.01, with the exception of securities that are priced less than $1.00, for which the MPV for quoting and entry is $0.0001).

Proposed Rule 13(a)(1)(B)(iii) would provide that unexecuted Market Orders that are held undisplayed in Exchange systems would not be available to the DMM either as part of aggregated interest at a price point or in disaggregated form and would not participate in intra-day manual executions. The Exchange proposes this rule text to reflect the Exchange's unique trading model, which, unlike NYSE Arca Equities, includes a DMM assigned to each security that trades on the Exchange.[11] Unless otherwise specified, DMMs have access to specified order information while on the Trading Floor.[12] Because unexecuted Market Orders would be held undisplayed at the contra-side NBBO, the Exchange proposes to treat such unexecuted orders similarly to other undisplayed orders and would not make information about them available to the DMM during intra-day trading. Accordingly, proposed Rule 13(a)(1)(B)(iii) is based on Rule 70(f)(ii) regarding the information available to a DMM regarding a Non-Display Reserve e-Quote that has been designated to be excluded from the DMM. In addition, because information about unexecuted Market Orders would not be available to DMMs when the Exchange is open for continuous trading, the Exchange further proposes to provide that such orders would not participate in intra-day manual executions, *i.e.*, executions facilitated by the DMM while on the Trading Floor.[13]

Proposed Rule 13(a)(1)(C) would specify how Market Orders would participate in auctions. Because auctions on the Exchange are facilitated by DMMs, the Exchange proposes that Market Orders that have not been assigned a working price based on the contra-side NBBO or, during a halt, pause or trading suspension, have not yet traded, would continue to participate in an auction as Market Orders currently do and would continue to be included in the information made available to DMMs and the public no differently than today. Accordingly, as proposed in Rule 13(a)(1)(C)(i), a Market Order that was entered before the opening of trading, or was entered before or during a halt, pause or suspension in trading, would be made available to the DMM as provided for in Rule 104(a)(2) and (3) and would be included in Order Imbalance Information [14] and allocated in the applicable auction as a Market Order. This would include all opening and reopening auctions,[15] and closing auctions that follow a halt, pause or suspension in trading.[16] In addition, if a Market Order arrives during continuous trading, is held undisplayed and assigned a working price, and then that security enters a halt or pause, such Market Order will revert and be considered an unpriced Market Order for purposes of allocation in the reopening auction.

By contrast, because a Market Order entered during continuous trading that remains unexecuted when the Exchange transitions to the closing transaction would have been assigned a working price, the Exchange proposes to handle such unexecuted Market Orders more similarly to a Limit Order in the closing transaction. Accordingly, as proposed in Rule 13(a)(1)(C)(ii), a Market Order that was entered during continuous trading and remains unexecuted for the close would be made available to the DMM as provided for in Rule 104(a)(3) and would be included in Order Imbalance Information and allocated in the closing transaction as a Limit Order with its limit price being the last working price assigned to the unexecuted Market Order.

The Exchange proposes to address how short sale Market Orders would be allocated in an auction in proposed Rule 13(a)(1)(C)(iii). Similar to unexecuted Market Orders that would participate in the closing transaction as a Limit Order, during a Short Sale Period, as defined in Rule 440B(d), a short sale Market Order would also participate in any auction as a Limit Order, but with the limit price being the last Permitted Price before the applicable transaction. Accordingly, proposed Rule 13(a)(1)(C)(iii) would provide that during a Short Sale Period, as defined in Rule 440B(d), a short sale Market Order re-priced to a Permitted Price, as defined in Rule 440B(e), would be made available to the DMM as provided for in Rules 104(a)(2) and (3) and would be included in Order Imbalance Information and allocated in the applicable auction as a Limit Order. This proposed behavior would be applicable for any auction.[17]

The Exchange also proposes to amend Rule 72 to specify how an unexecuted Market Order would be allocated. First, the Exchange proposes to amend Rule 72(c)(i), which currently provides that an automatically executing order will trade first with displayable bids (offers) and if there is insufficient displayable volume to fill the order, will trade next with non-displayable interest. The Exchange proposes to amend this rule to provide that an automatically executing order would trade first with any unexecuted Market Orders, which would be allocated in time priority, and then with displayable bids (offers).

Second, the Exchange proposes to amend Rule 72(c)(iii), which currently describes how in any execution at the Exchange BBO, a participant who has established priority under Rule 72(a) will receive fifteen percent of the volume of such executed amount or a minimum of one round lot, whichever is greater, until such setting interest has received a complete execution of its eligible priority interest. The Exchange proposes to amend this rule text to add that such priority allocation would be after any unexecuted Market Orders have been satisfied.

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[10] The NBBO may differ from the best protected quotations ("PBBO") because the NBBO includes manual quotations, which are defined as any quotation other than an automated quotation. 17 CFR 242.600(b)(37). By contrast, a protected quotation is an automated quotation that is the best bid or offer of a national securities exchange. 17 CFR 242.600(b)(57)(iii). In addition, when the Exchange routes interest to protected quotations, it adjusts the PBBO, but does not adjust the NBBO. *See* Securities Exchange Act Release No. 74410 (March 2, 2015), 80 FR 12240 (March 6, 2015) (SR–NYSE–2015–09).

[11] *See* Rule 2(i) (defining the term "Designated Market Maker" or "DMM" to mean an individual member, officer, partner, employee or associated person of a DMM unit who is approved by the Exchange to act in the capacity of a DMM).

[12] *See* Rule 104(j)(ii).

[13] By contrast, the Exchange proposes that the participation of Market Orders would not change for auctions on the Exchange, including that availability of Market Orders would be made known to the DMM. *See* proposed Rule 13(a)(1)(C)(ii). DMMs are responsible for facilitating openings and reopenings and the close of trading. To comply with this requirement, the Exchange makes available to DMMs and DMM unit algorithms aggregate order information. *See* NYSE Rule 104(a)(2) and (3).

[14] *See* Rules 15(c) and 123C(6).

[15] *See* Rule 115A(a)(i).

[16] *See* Rule 123C(7).

[17] This proposed behavior for short sale Market Orders on the Exchange is based on Commentary .01(a) to NYSE Arca Equities Rule 7.35P, which provides that for purposes of pricing an auction and ranking orders for allocation in an auction, sell short Market Orders that are adjusted to a Permitted Price (as defined in Rule 7.16P(f)) will be processed as Limit Orders ranked Priority 2–Display Orders and will not be included in the Market Imbalance.

Both of these proposed amendments to Rule 72(c) are based on NYSE Arca Equities Rule 7.31P(a)(1), which provides that unexecuted Market Orders are ranked Priority 1—Market Orders. As defined in NYSE Arca Equities Rule 7.36P(e), at each price point, unexecuted Market Orders that are ranked Priority 1—Market Orders have priority over all other same-side orders with the same working price. The Exchange proposes to provide similar priority ranking of unexecuted Market Orders, which would harmonize how Market Orders behave on the two markets.

To further harmonize the behavior of Market Orders on the Exchange with the behavior of Market Orders on NYSE Arca Equities, the Exchange proposes to amend Rule 80C(a)(5)(A) regarding how Market Orders would be handled if they cannot be fully executed at or within the Limit Up-Limit Down Price Bands.[18] Currently, the Exchange would display the unexecuted portion of a buy (sell) market order at the Upper (Lower) Price Band if it cannot be fully executed at or within the Price Bands. The Exchange proposes to amend this Rule to provide that the Exchange would cancel the unexecuted portion of the buy (sell) market order if it cannot be fully executed at or within the Price Bands and would notify the member organization of the reason for such cancellation. This proposed rule text is based on NYSE Arca Equities Rule 7.11P(a)(5)(A), which provides that any untraded quantity of Market Orders that cannot be traded at prices at or within the Price Bands will be cancelled and the ETP Holder will be notified of the reason for such cancellation. In addition, because the Exchange does not offer Market Pegging Interest, the Exchange proposes a non-substantive change to delete the text in Rule 80C(a)(5)(E) relating to Market Pegging Interest and replace it with the text "Reserved."[19]

In addition, the Exchange proposes to harmonize the behavior of sell short Market Orders during a Short Sale Period with how such orders are handled on NYSE Arca Equities. Currently, Rule 440B(e) provides that short sale market orders will be re-priced by Exchange systems one minimum price increment above the current national best bid ("Permitted Price."). Because the Exchange proposes that unexecuted Market Orders would not be displayed, the Exchange proposes to amend Rule 440B(e) to provide that any unexecuted or any unexecuted portion of a short sale Market Order re-priced to a Permitted Price would rest on the Exchange's Book and be non-displayed and that they would be re-priced upward to a Permitted Price to correspond with a rise in the national best bid.[20] This proposed rule change is based on NYSE Arca Equities Rule 7.16P(f)(5)(C), which provides that Market Orders will have a working price adjusted to a Permitted Price and will continuously adjust to a Permitted Price as the NBB moves both up and down.

The Exchange also proposes to amend how Trading Collars would operate for Market Orders. Because of technology differences between the Exchange and NYSE Arca Equities, the Exchange proposes to keep the current behavior for Trading Collars, which use the NBBO as a reference price, rather than adopt the NYSE Arca Equities manner of determining Trading Collars, which use the consolidated last sale price as the reference price. Currently, Rule 1000(c) provides that Trading Collars are applicable to incoming market orders. Because as proposed, Market Orders would be re-evaluated for an execution or routing opportunity with each update to the NBBO, the Exchange proposes to apply the Trading Collar evaluation with each evaluation to trade or route an unexecuted Market Order. Accordingly, the Exchange proposes to amend Rule 1000(c) to provide that an unexecuted Market Order would be subject to a Trading Collar upon each evaluation to trade or route such order.[21]

Finally, the Exchange proposes to amend Supplementary Material .10 to Rule 13 to specify how unexecuted Market Orders would be included in the definitions of "best-priced sell interest" and "best-priced buy interest." These terms are used to describe how a Limit Order designated with an Add Liquidity Only ("ALO") Modifier will be re-priced when such Limit Order, at the time of entry, is marketable against Exchange interest or would lock or cross a protected quotation.[22] Specifically, a Limit Order designated ALO that, at the time of entry, is marketable against Exchange interest will be re-priced and displayed one MPV below the best-priced sell interest (for bids) or above the best-priced buy interest (for offers). Supplementary Material .10 to Rule 13 provides that the term best-priced sell (buy) interest refers to the lowest-priced sell (highest-priced buy) interest against which incoming buy (sell) interest would be required to execute with and/or route to, including Exchange displayed offers, Non-Display Reserve Orders, Non-Display Reserve e-Quotes, odd-lot sized sell (buy) interest, and protected offers (bids) on away markets, but does not include non-displayed sell (buy) interest that is priced based on the PBBO. The Exchange proposes to amend Supplementary Material .10 to Rule 13 to add unexecuted Market Orders to the list of interest that would be included in the term "best-priced sell interest" and "best-priced buy interest." Accordingly, if there is an unexecuted Market Order being held undisplayed at a price, an incoming opposite-side Limit Order designated ALO would be re-priced and displayed one MPV away from the working price of such unexecuted Market Order.

Proposed Deletions

The Exchange proposes to reduce complexity by reducing order type combinations that are infrequently used. As proposed, the Exchange proposes to eliminate the functionality to combine a Market Order with an IOC, buy "minus," or sell "plus" instruction.

First, to eliminate IOC instructions for Market Orders, the Exchange proposes to amend Rules 13(b)(3)(A) (renumbered as Rule 13(b)(2)(A)) regarding Regulation NMS-compliant IOC Orders and 13(b)(3)(B) (renumbered as Rule 13(b)(2)(B)) regarding NYSE IOC Orders to delete the references to Market Orders in the rule text. The Exchange further proposes to clarify Rule 13(b)(1) regarding the Day Modifier to specify that Market Orders can be designated Day, which is current functionality. The Exchange also proposes non-substantive, technical changes to change the subsection numbering from Rule 13(b)(3) to Rule 13(b)(2) and to capitalize the term "Order" in Rule 13(b)(2)(A).

Second, to eliminate tick sensitive instructions for Market Orders, the Exchange proposes to amend Rule 13(f)(4) to delete references to Market Orders and to make other non-substantive changes. Rule 13(f)(4)(A) currently provides:

> A Market Order to sell "plus" is a Market Order to sell a stated amount of a stock provided that the price to be obtained is not lower than the last sale if the last sale was a "plus" or "zero plus" tick, and is not lower than the last sale plus the minimum fractional change in the stock if the last sale

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[18] *See* Rule 80C.

[19] The Exchange also proposes a non-substantive amendment to Rule 80C(a)(5)(A) to capitalize the term "Market Order."

[20] The Exchange also proposes a non-substantive amendment to Rule 440B(e) to capitalize the term "Market Order."

[21] The Exchange also proposes a non-substantive amendment to Rule 1000(c) to capitalize the terms "Market Order" and "Limit Order."

[22] *See* Rule 13(e)(1)(B).

was a "minus" or "zero minus" tick. A Limit Order to sell "plus" would have the additional restriction of stating the lowest price at which it could be executed.

The Exchange proposes to delete references to Market Orders in the first sentence. In addition, the Exchange proposes to delete the last sentence and instead incorporate the concept of that sentence into the prior sentence. The proposed new rule text would provide:

> An order with an instruction to sell "plus" will not trade at a price [sic] lower than the last sale if the last sale was a "plus" or "zero plus" tick, and is not [sic] lower than the last sale plus the minimum fractional change in the stock if the last sale was a "minus" or "zero minus" tick, subject to the limit price of an order, if applicable.

The Exchange proposes a similar change to Rule 13(f)(4)(C), which currently provides:

> A Market Order to buy "minus" is a Market Order to buy a stated amount of a stock provided that the price to be obtained is not higher than the last sale if the last sale was a "minus" or "zero minus" tick, and is not higher than the last sale minus the minimum fractional change in the stock if the last sale was a "plus" or "zero plus" tick. A Limit Order to buy "minus" would have the additional restriction of stating the highest price at which it could be executed.

The proposed new rule text, which would be set forth in Rule 13(f)(4)(B), would provide:

> An order with an instruction to buy "minus" will not trade at a price [sic] higher than the last sale if the last sale was a "minus" or "zero minus" tick, and is not [sic] higher than the last sale minus the minimum fractional change in the stock if the last sale was a "plus" or "zero plus" tick, subject to the limit price of an order, if applicable.

The Exchange further proposes to streamline the rule by deleting current Rule 13(f)(4)(B) and combining it with current Rule 13(f)(4)(D), which would be re-numbered as Rule 13(f)(4)(C).[23] Proposed Rule 13(f)(4)(C) would also specify which orders may be combined with sell "plus" and buy "minus" instructions. Accordingly, as proposed, Rule 13(f)(4)(C) would provide:

> Sell "plus" and buy "minus" instructions are available for Limit Orders, LOO Orders, LOC Orders, and MOC Orders. Orders with a buy "minus" or sell "plus" instruction that are systemically delivered to Exchange systems will be eligible to be automatically executed in accordance with, and to the extent provided by, Rules 1000–1004, consistent with the order's instructions.

As noted above, sell "plus" and buy "minus" instructions, also referred to as "tick-sensitive instructions," are currently available for Market Orders, but are also available for MOO and LOO Orders[24] and MOC and LOC Orders.[25] The Exchange proposes to clarify proposed Rule 13(f)(4)(C) to specify which orders could include tick-sensitive instructions. As proposed, Limit Orders, LOO Orders, LOC Orders and MOC Orders would continue to be eligible to be combined with a tick-sensitive instruction. As noted above, Market Orders would not be eligible to include tick-sensitive instructions, and the Exchange proposes to also exclude MOO Orders from including tick-sensitive instructions. To reflect these changes, the Exchange also proposes to amend Rule 13(c)(5) and Rule 115A(a)(1)(A) and (B) to delete references to tick-sensitive market and MOO orders. The Exchange also proposes a non-substantive amendment to Rule 115A(1)(A) to capitalize the term "Market Order."

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Because of the technology changes associated with this proposed rule change, the Exchange will announce by Trader Update the implementation date.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[26] in general, and furthers the objectives of Section 6(b)(5),[27] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would simplify how Market Orders would function on the Exchange by harmonizing the behavior of Market Orders with how they operate on the Pillar trading platform on NYSE Arca Equities. The Exchange further believes that the proposed changes would protect investors and the public interest because they are designed to prevent a Market Order from sweeping through multiple price points on the Exchange book, which may result in a Market Order executing at prices away from the prevailing quote. As proposed, a Market Order would be held undisplayed at the last contra-side NBBO price and wait for a pricing update before being eligible to trade or route again, thus reducing the potential for a Market Order to sweep through multiple price points on the Exchange's book. Instead, by waiting for updates to the NBBO before becoming eligible to trade again, a Market Order would have additional opportunity to route to Away Markets before sweeping through multiple price points on the Exchange's book.

The Exchange further believes that eliminating IOC and tick-sensitive instructions for Market Orders would remove impediments to and perfect a national market system by simplifying functionality and complexity of its order types. Specifically, these are order type combinations that are infrequently used. For example, year-to-date, the Exchange and its affiliated exchange NYSE MKT LLC ("NYSE MKT"), which has identical rules, have not received any MOO Orders with tick-sensitive instructions, have not received any Market Orders with sell plus instructions, and have received only 17 Market Orders with buy minus instructions. Similarly, year-to-date, the Exchange and NYSE MKT have received only 20 Market Orders with IOC instructions. Accordingly, the Exchange believes that eliminating these order types would be consistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from the removal of complex functionality.

The Exchange further believes that deleting corresponding references in Exchange rules to deleted order types also would remove impediments to and perfect the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the orders types available for trading on the Exchange. Removing obsolete cross references also furthers the goal of transparency and adds clarity to the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but would rather harmonize the treatment of Market Orders between the Exchange and NYSE Arca Equities and remove complex functionality and obsolete cross-references, thereby reducing confusion and making the Exchange's rules easier to understand and navigate.

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[23] Consistent with the proposed re-numbering of Rule 13(f)(4), current Rule 13(f)(4)(E) would be re-numbered as Rule 13(f)(4)(D), with no changes to the rule text.

[24] *See* Rule 115A(1)(A) and (B).

[25] *See* Rule 123C(7).

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[28] and Rule 19b–4(f)(6) thereunder.[29] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiving the operative delay would promote the protection of investors and the public interest because the proposed rule change would reduce the potential for a Market Order to trade at prices away from the prevailing quote and at potentially worse prices for the investor. Likewise, the Exchange believes that eliminating IOC and tick-sensitive instructions for Market Orders, without delay, would be consistent with the protection of investors and the public interest because these instructions are rarely used and their elimination would simplify the Exchange's offering of order types. The Commission believes that the proposed rule change is consistent with the protection of investors and the public interest, because the proposal would diminish the likelihood of Market Orders trading at prices that would be disadvantageous to investors, and because it would simplify the Exchange's order types by eliminating rarely used complex order functionality. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[32]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[33] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2016–35 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2016–35. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2016–35 and should be submitted on or before June 15, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–12241 Filed 5–24–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77876; File No. SR–MIAX–2016–08]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Order Granting Approval of Proposed Rule Change to Amend the Exchange's Amended and Restated By-Laws Relating to the Removal of a Board Restriction

May 20, 2016.

I. Introduction

On March 29, 2016, Miami International Securities Exchange LLC (the "Exchange" or "MIAX") filed with the Securities and Exchange Commission (the "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

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[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[33] 15 U.S.C. 78s(b)(2)(B).

[34] 17 CFR 200.30–3(a)(12).

("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend the Exchange's Amended and Restated By-Laws ("By-Laws") in order to remove a restriction prohibiting a Director, Observer or committee member of the Exchange's Board of Directors ("Board") from simultaneously serving as a member of the governing body of a competitor. The proposed rule change was published for comment in the **Federal Register** on April 8, 2016.[3] The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

Currently, the By-Laws restrict an individual who is a Director,[4] Observer,[5] or committee member of the Exchange from also serving as a member of the board of directors or similar governing body of a "Specified Entity." The term "Specified Entity" generally refers to any U.S. securities option exchange (or facility thereof) or U.S. alternative trading system on which securities options are traded which competes with the Exchange.[6] The By-Laws specify that upon any individual who is a Director, Observer, or committee member of the Exchange becoming a member of the board of directors or similar governing body of a Specified Entity, such individual immediately would cease being a Director, Observer or committee member, as applicable, of the Board ("Board Restriction").[7]

The Exchange states that the Board Restriction was added to the By-Laws in connection with the Equity Rights Program ("ERP"),[8] and was intended to prevent potential conflicts of interest that might arise due to an Exchange Director, Observer or committee member also serving a similar role on the governing body of a competitor.[9] As more fully described in the Notice, the Exchange now proposes to amend the By-Laws to eliminate the Board Restriction.[10] The Exchange states that it has found the Board Restriction to be unnecessarily restrictive, that it unduly limits the availability of qualified candidates from serving on the Exchange Board (or other governing body), and that the potential conflicts of interest that the restriction was designed to address can be more effectively and more efficiently addressed by other means.[11]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.[12] In particular, the Commission finds that the proposal is consistent with Section 6(b)(1) of the Act,[13] which requires that an exchange be organized and have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange represents that its proposed removal of the Board Restriction from the By-Laws is designed to enable MIAX to engage the best suited and most qualified leaders to serve in the capacity of Director, Observer or committee member of the Exchange and will facilitate a Board structure and composition that will strengthen the Exchange's ability to comply with the provisions of the Act and enforce compliance by its members with the provisions of the Act. The Exchange also notes that most of its competing option exchanges do not restrict their board members from sitting on the board of directors or other governing body of another options exchange.[14] Further, the Commission notes that it has previously considered and approved the Exchange's Board structure without the Board Restriction, and determined that the Exchange's governance provisions were designed to enable the Exchange to carry out its functions and responsibilities under the Act.[15] For these reasons, the Commission finds that the proposed rule change is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–MIAX–2016–08) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–12396 Filed 5–24–16; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77507 (April 4, 2016), 81 FR 20716 (April 8, 2016) ("Notice").

[4] The term "Director" means the persons elected or appointed to the Board from time to time in accordance with the LLC Agreement of the Exchange and the By-Laws in their capacity as managers of the Exchange. *See* By-Laws, Article I (j).

[5] The term "Observer" means a person invited to attend meetings of the Board in a nonvoting observer capacity as further described in Article II, Section 2.2(g)(i)–(iii) of the By-Laws. *See* By-Laws, Article II, Section 2.2(g).

[6] Specifically, the term "Specified Entity" is defined in the By-Laws to mean (i) any U.S. securities option exchange (or facility thereof) or U.S. alternative trading system on which securities options are traded (other than the Exchange or any of its affiliates) that lists for trading any option contract that competes with an Exchange Contract, (ii) any person that owns or controls such U.S. securities option exchange or U.S. alternative trading system, and (iii) any affiliate of a person described in clause (i) or (ii) above. *See* By-Laws, Article I (oo).

[7] The Board Restriction was adopted by the Exchange in 2014. *See* Securities Exchange Act Release Nos. 71172 (December 23, 2013), 78 FR 79530 (December 30, 2013); and 71541 (February 12, 2014), 79 FR 9572 (February 19, 2014) (SR–MIAX–2013–58).

[8] Pursuant to the ERP, units representing the right to acquire equity in the Exchange's parent holding company, Miami International Holdings, Inc., were issued to participating Members in exchange for payment of an initial purchase price or the prepayment of certain transaction fees and the achievement of certain liquidity addition volume thresholds on the Exchange over a fixed period of time. The By-Laws were also then amended to incorporate rights granted to Members participating in the ERP to appoint representation on the MIAX Board. *See* Securities Exchange Act Release No. 70498 (September 25, 2013), 78 FR 60348 (October 1, 2013) (SR–MIAX–2013–43) and Securities Exchange Act Release No. 71172 (December 23, 2013), 78 FR 79530 (December 30, 2013) (SR–MIAX–2013–58).

[9] *See* Notice, *supra* note 3, at 20717.

[10] Specifically, the Exchange proposes to remove the last sentence of Article II, Section 2.2(d), Article II, Section 2.2(g)(ii), and Article IV, Section 4.2(b) regarding the Board Restriction, and remove the defined terms "Exchange Contract" and "Specified Entity," set forth in Article I (p) and (oo), respectively, which are used only in connection with the Board Restriction. *See* Notice, *supra* note 3, at 20717–18.

[11] *See* Notice, *supra* note 3, at 20717.

[12] 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f(b)(1).

[14] *See* Notice, *supra* note 3, at 20717.

[15] *See* Securities Exchange Act Release No. 68341 (December 3, 2012), 77 FR 73065, 73070 (December 7, 2012) (File No. 10–207) (order approving MIAX's application for registration as a national securities exchange).

[16] 15 U.S.C. 78f(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77856; File No. SR–MSRB–2016–06]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Consisting of Amendments to the MSRB's Amended and Restated Articles of Incorporation

May 19, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act" or "Exchange Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 5, 2016, the Municipal Securities Rulemaking Board (the "MSRB" or "Board") filed with the Securities and Exchange Commission (the "Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB filed with the Commission a proposed rule change consisting of amendments to the MSRB's Amended and Restated Articles of Incorporation ("Articles of Incorporation") ("proposed rule change"). The MSRB has designated the proposed rule change for immediate effectiveness.

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2016-Filings.aspx*, at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On March 17, 2016, the Commission approved a proposed rule change consisting of amendments to MSRB Rule A–3, on membership on the Board.[3] The amendments, among other things, lengthened the term of Board member service from three to four years and changed the number and size of Board classes from three classes comprised of seven members to four classes—one class comprised of six members and three classes of five. Additionally, the amendments deleted a provision that related to a previous transition process the MSRB used to increase its Board size from 15 to 21 members and to be in compliance with new requirements established by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.[4]

The purpose of the proposed rule change is to amend the Articles of Incorporation as necessary and appropriate to conform them to amended Rule A–3, as described above.[5] The proposed rule change will become operative on October 1, 2016, at the beginning of the first MSRB fiscal year for which the new term length and class structure will apply, and the MSRB will file the Articles of Incorporation with the Commonwealth of Virginia at a later date in accordance with Virginia law.

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Sections 15B(b)(1) and (2) of the Exchange Act,[6] which require, among other things, that the rules of the Board establish fair procedures for the nomination and election of members of the Board and assure fair representation in such nominations and elections of public representatives, broker-dealer representatives, bank representatives, and advisor representatives and the terms that shall be served by such members.[7] The MSRB believes that the proposed rule change is consistent with Sections 15B(b)(1) and (2) of the Exchange Act by conforming the Articles of Incorporation of the Board to amended Rule A–3.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act, since the proposed rule change simply amends the Articles of Incorporation of the Board to conform them to amended MSRB Rule A–3 and solely concerns the administration of the organization.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and paragraph (f) of Rule 19b–4 thereunder.[9] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MSRB–2016–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2016–06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2016–06 and should be submitted on or before June 15, 2016.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 77390 (Mar. 17, 2016), 81 FR 15582 (Mar. 23, 2016) (File No. SR–MSRB–2016–01) ("SEC Approval Order").

[4] *See* Public Law 111–203, 124 Stat. 1376; Exchange Act Release No. 65424 (Sept. 28, 2011), 76 FR 61407 (Oct. 4, 2011) (File No. SR–MSRB–2011–11) (approving the MSRB's establishment of a Board structure of 21 Board members divided into three classes, with each class being comprised of seven members who would serve staggered three-year terms).

[5] The MSRB will also amend its by-laws to reflect the recent amendments to Rule A–3.

[6] 15 U.S.C. 78*o*–4(b)(1)–(2).

[7] 15 U.S.C. 78*o*–4(b)(2)(B).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

For the Commission, pursuant to delegated authority.[10]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–12238 Filed 5–24–16; 8:45 am]

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[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77859; File No. SR–NYSEMKT–2016–54]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 13—Equities and Related Rules Regarding Market Orders

May 19, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on May 16, 2016, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II, below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 13—Equities (Orders and Modifiers) and related rules regarding Market Orders. The proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 13—Equities (Orders and Modifiers) ("Rule 13") and related rules relating to Market Orders. The proposed changes are designed to simplify the Exchange's offering of order types by harmonizing the behavior of Market Orders with how similar orders operate on NYSE Arca Equities, Inc. ("NYSE Arca Equities"), the Exchange's affiliated equities marketplace, and by eliminating specified combinations of orders and modifiers.[4]

Overview

Currently, Market Orders are defined in Rule 13(a)(1) as an order to buy or sell a stated amount of a security at the most advantageous price obtainable after the order is represented in the Trading Crowd or routed to Exchange systems. If a Market Order to sell has exhausted all eligible buy interest, any unfilled balance of the Market Order to sell will be cancelled. Market Orders may include an immediate-or-cancel ("IOC") time-in-force modifier.[5] In addition, a Market Order may include an instruction to either buy "minus" or sell "plus."[6]

The Exchange proposes to simplify how Market Orders would function on the Exchange by harmonizing the behavior of Market Orders with how they operate on the Pillar trading platform on NYSE Arca Equities and by eliminating the ability to combine a Market Order with an IOC, buy "minus," or sell "plus" instruction, which are not available on the NYSE Arca Equities trading platform. The Exchange believes that eliminating these order type combinations would streamline its rules and reduce complexity among its order type offerings.[7]

Proposed Amendments to Market Orders

To effect the proposed changes to how Market Orders would operate, the Exchange proposes to amend Rule 13(a)(1) to provide that a Market Order that is eligible for automatic execution would be an unpriced order to buy or sell a stated amount of a security that is to be traded at the best price obtainable without trading through the NBBO. This proposed rule text is based on the first sentence of NYSE Arca Equities Rule 7.31P(a)(1), which provides that a Market Order is an unpriced order to buy or sell a stated amount of a security that is to be traded at the best price obtainable without trading through the NBBO.

The Exchange proposes one difference for the NYSE MKT version of the rule, which is to provide that the proposed definition is intended only for orders eligible for automatic execution. Rule 1000(a)—Equities provides that an automatically executing order shall receive an immediate, automatic execution against orders reflected in the Exchange published quotation and orders in the Exchange book.[8] However, automatic executions are not available if trading in a security has been halted or if a block-sized transaction as defined in Rule 127.10—Equities involves orders on the Exchange book that is being reported manually.[9] Because the proposed new functionality relating to Market Orders would not be available for these limited circumstances, the Exchange proposes to keep the current definition of Market Orders as proposed subsection (D) of Rule 13(a)(1) and specify that this subsection of the rule is only for Market Orders that are not eligible for automatic execution.

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[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] NYSE Arca Equities is a wholly-owned subsidiary of NYSE Arca, Inc., which is a national securities exchange.

[5] *See* Rule 13(b)(3).

[6] *See* Rule 13(f)(A) and (C).

[7] *See, e.g.*, Mary Jo White, Chair, Securities and Exchange Commission, Speech at the Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available at *www.sec.gov/News/Speech/Detail/Speech/1370542004312#.U5HI-fmwJiw*).

[8] Because Market Orders are eligible for automatic execution, the Exchange proposes a non-substantive amendment to change the title of Rule 1000—Equities from "Automatic Execution of Limit Orders Against Orders Reflected In Exchange Published Quotation" to "Automatic Executions."

Proposed Rule 13(a)(1)(A) would define certain terms for purposes of Market Orders. Specifically, because the Exchange is proposing to adopt rule text based on NYSE Arca Equities Rule 7.31P(a)(1), which uses terms defined in the NYSE Arca Equities rules, the Exchange proposes to add the following defined terms to Rule 13:

- Proposed Rule 13(a)(1)(A)(i) would define the term "Away Market, " for purposes of Market Orders, to mean any exchange with which the Exchange maintains an electronic linkage and which provides instantaneous responses to orders routed from the Exchange. This proposed definition is based on NYSE Arca Equities Rule 1.1(ffP), which defines the term "Away Market" to mean any exchange, alternative trading system ("ATS") or other broker-dealer (1) with which the NYSE Arca Marketplace maintains an electronic linkage and (2) which provides instantaneous responses to order routed from the NYSE Arca Marketplace. Because the Exchange does not route to any ATSs or other broker-dealers for execution, the Exchange would not include a reference to ATSs or broker-dealers in its definition of Away Market.
- Proposed Rule 13(a)(1)(A)(ii) would define the term "NBBO" to mean the national best bid or offer and the terms "NBB" to mean the national best bid and "NBO" to mean the national best offer. These proposed definitions are identical to those definitions in NYSE Arca Equities Rule 1.1(dd).
- Proposed Rule 13(a)(1)(A)(iii) would define the term "working price" to mean the price at which an order is eligible to trade at any given time. This proposed definition is based on NYSE Arca Equities Rule 7.36P(a)(3), which defines the term "working price" to mean the price at which an order is eligible to trade at any given time, which may be different from the limit price or display price of the order. The Exchange does not propose to include the last clause of the NYSE Arca Equities definition because the Exchange is proposing the definition of working price only for purposes of Market Orders, which do not include a limit price and which are not displayed.
- Proposed Rule 13(a)(1)(A)(iv) would define the term "MPV" to mean the minimum price variation for quoting and entry of orders as specified in Supplementary Material .10 to Rule 62—Equities. The Exchange uses the same pricing increments as NYSE Arca Equities.[10]

Proposed Rule 13(a)(1)(B) would specify how a Market Order would operate during continuous trading. The Exchange would specify how Market Orders would participate in auctions in proposed Rule 13(a)(1)(C), described in greater detail below.

As proposed in Rule 13(a)(1)(B)(i), a Market Order would be rejected on arrival or cancelled if resting if there is no contra-side NBBO or if the best protected quotations are or become crossed. This proposed rule text is based on the second sentence of NYSE Arca Equities Rule 7.31P(a)(1), which provides that a Market Order must be designated Day and will be rejected on arrival or cancelled if resting if there is no contra-side NBBO. Because of technology differences between how the Exchange operates and how NYSE Arca Equities operates on the Pillar trading platform, the Exchange proposes that if protected quotations are or become crossed, the Exchange would reject newly arriving Market Orders or cancel resting unexecuted Market Orders.

Proposed Rule 13(a)(1)(B)(ii) would provide that:

> On arrival, a Market Order to buy (sell) is assigned a working price of the NBO (NBB) and will trade with all sell (buy) orders on the Exchange priced at or below (above) the NBO (NBB) before routing to the NBO (NBB) on an Away Market. The quantity of a Market Order to buy (sell) not traded or routed will remain undisplayed on the Exchange at a working price of the NBO (NBB) and be eligible to trade with incoming sell (buy) orders at that price. When the NBO (NBB) is updated, the Market Order to buy (sell) will be assigned a new working price of the updated NBO (NBB) and will trade with all sell (buy) orders on the Exchange priced at or below (above) the updated NBO (NBB) before routing to the updated NBO (NBB) on an Away Market. Such assessment will continue at each new contra-side NBBO until the order is filled or a Trading Collar is reached. If the NBBO becomes locked or crossed either on arrival or while the order is held undisplayed, the Market Order to buy (sell) will be assigned a working price of the NBB (NBO).

This proposed rule text is based on NYSE Arca Equities Rule 7.31P(a)(1)(A), which provides:

> On arrival, a Market Order to buy (sell) is assigned a working price of the NBO (NBB) and will trade with all sell (buy) orders on the NYSE Arca Book priced at or below (above) the NBO (NBB) before routing to the NBO (NBB) on an Away Market. The quantity of a Market Order to buy (sell) not traded or routed will remain undisplayed on the NYSE Arca Book at a working price of the NBO (NBB) and be eligible to trade with incoming sell (buy) orders at that price. When the updated NBO (NBB) is displayed, the Market Order to buy (sell) will be assigned a new working price of the updated NBO (NBB) and will trade with all sell (buy) orders on the NYSE Arca Book priced at or below (above) the updated NBO (NBB) before routing to the updated NBO (NBB) on an Away Market. Such assessment will continue at each new contra-side NBBO until the order is filled or a Trading Collar is reached. If the NBBO becomes locked or crossed while the order if held undisplayed, the Market Order to buy (sell) will be assigned a working price of the NBB (NBO).

The Exchange proposes a non-substantive difference to use the term "Exchange" instead of "NYSE Arca Book" in proposed Rule 13(a)(1)(B)(ii). The Exchange also proposes a change from the NYSE Arca Equities Rule to specify that a Market Order would be priced to the same-side NBBO when the NBBO is crossed both on arrival and when resting. To this point, as described above, if the protected quotations are crossed, a resting Market Order would be cancelled, which differs from current NYSE Arca Equities behavior. However, if the NBBO is crossed, but the best protected quotations are not crossed, the Exchange would price the Market Order based on the same-side NBBO, which is how Market Orders operate on NYSE Arca Equities.[11] Finally, the Exchange proposes a change from the NYSE Arca Equities rule to provide that a Market Order will be assigned a new working price when the NBBO is updated, and not when an updated NBBO is displayed. The proposed Exchange

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The proposed amendment aligns the title of Rule 1000—Equities with New York Stock Exchange LLC ("NYSE") Rule 1000.

[9] *See* Rule 1000(a)(i)–(ii)—Equities.

[10] *See* NYSE Arca Equities Rule 7.6 (defining minimum price variation as $0.01, with the exception of securities that are priced less than $1.00, for which the MPV for quoting and entry is $0.0001).

[11] The NBBO may differ from the best protected quotations ("PBBO") because the NBBO includes manual quotations, which are defined as any quotation other than an automated quotation. 17 CFR 242.600(b)(37). By contrast, a protected quotation is an automated quotation that is the best bid or offer of a national securities exchange. 17 CFR 242.600(b)(57)(iii). In addition, when the Exchange routes interest to protected quotations, it adjusts the PBBO, but does not adjust the NBBO. *See* Securities Exchange Act Release No. 74408 (March 2, 2015), 80 FR 12225 (March 6, 2015) (SR–NYSEMKT–2015–11).

functionality is identical to that of NYSE Arca Equities, but the Exchange believes its proposed rule language clarifies that it would incorporate updates to the NBBO based on executions at the Exchange that have not yet been displayed.

Proposed Rule 13(a)(1)(B)(iii) would provide that unexecuted Market Orders that are held undisplayed in Exchange systems would not be available to the DMM either as part of aggregated interest at a price point or in disaggregated form and would not participate in intra-day manual executions. The Exchange proposes this rule text to reflect the Exchange's unique trading model, which, unlike NYSE Arca Equities, includes a DMM assigned to each security that trades on the Exchange.[12] Unless otherwise specified, DMMs have access to specified order information while on the Trading Floor.[13] Because unexecuted Market Orders would be held undisplayed at the contra-side NBBO, the Exchange proposes to treat such unexecuted orders similarly to other undisplayed orders and would not make information about them available to the DMM during intra-day trading. Accordingly, proposed Rule 13(a)(1)(B)(iii) is based on Rule 70(f)(ii)—Equities regarding the information available to a DMM regarding a Non-Display Reserve e-Quote that has been designated to be excluded from the DMM. In addition, because information about unexecuted Market Orders would not be available to DMMs when the Exchange is open for continuous trading, the Exchange further proposes to provide that such orders would not participate in intra-day manual executions, *i.e.*, executions facilitated by the DMM while on the Trading Floor.[14]

Proposed Rule 13(a)(1)(C) would specify how Market Orders would participate in auctions. Because auctions on the Exchange are facilitated by DMMs, the Exchange proposes that Market Orders that have not been assigned a working price based on the contra-side NBBO or, during a halt, pause or trading suspension, have not yet traded, would continue to participate in an auction as Market Orders currently do and would continue to be included in the information made available to DMMs and the public no differently than today. Accordingly, as proposed in Rule 13(a)(1)(C)(i), a Market Order that was entered before the opening of trading, or was entered before or during a halt, pause or suspension in trading, would be made available to the DMM as provided for in Rule 104(a)(2) and (3)—Equities and would be included in Order Imbalance Information[15] and allocated in the applicable auction as a Market Order. This would include all opening and reopening auctions,[16] and closing auctions that follow a halt, pause or suspension in trading.[17] In addition, if a Market Order arrives during continuous trading, is held undisplayed and assigned a working price, and then that security enters a halt or pause, such Market Order will revert and be considered an unpriced Market Order for purposes of allocation in the reopening auction.

By contrast, because a Market Order entered during continuous trading that remains unexecuted when the Exchange transitions to the closing transaction would have been assigned a working price, the Exchange proposes to handle such unexecuted Market Orders more similarly to a Limit Order in the closing transaction. Accordingly, as proposed in Rule 13(a)(1)(C)(ii), a Market Order that was entered during continuous trading and remains unexecuted for the close would be made available to the DMM as provided for in Rule 104(a)(3)—Equities and would be included in Order Imbalance Information and allocated in the closing transaction as a Limit Order with its limit price being the last working price assigned to the unexecuted Market Order.

The Exchange proposes to address how short sale Market Orders would be allocated in an auction in proposed Rule 13(a)(1)(C)(iii). Similar to unexecuted Market Orders that would participate in the closing transaction as a Limit Order, during a Short Sale Period, as defined in Rule 440B(d), a short sale Market Order would also participate in any auction as a Limit Order, but with the limit price being the last Permitted Price before the applicable transaction. Accordingly, proposed Rule 13(a)(1)(C)(iii) would provide that during a Short Sale Period, as defined in Rule 440B(d)—Equities, a short sale Market Order re-priced to a Permitted Price, as defined in Rule 440B(e)—Equities, would be made available to the DMM as provided for in Rules 104(a)(2) and (3)—Equities and would be included in Order Imbalance Information and allocated in the applicable auction as a Limit Order. This proposed behavior would be applicable for any auction.[18]

The Exchange also proposes to amend Rule 72—Equities ("Rule 72") to specify how an unexecuted Market Order would be allocated. First, the Exchange proposes to amend Rule 72(c)(i), which currently provides that an automatically executing order will trade first with displayable bids (offers) and if there is insufficient displayable volume to fill the order, will trade next with non-displayable interest. The Exchange proposes to amend this rule to provide that an automatically executing order would trade first with any unexecuted Market Orders, which would be allocated in time priority, and then with displayable bids (offers).

Second, the Exchange proposes to amend Rule 72(c)(iii), which currently describes how in any execution at the Exchange BBO, a participant who has established priority under Rule 72(a) will receive fifteen percent of the volume of such executed amount or a minimum of one round lot, whichever is greater, until such setting interest has received a complete execution of its eligible priority interest. The Exchange proposes to amend this rule text to add that such priority allocation would be after any unexecuted Market Orders have been satisfied.

Both of these proposed amendments to Rule 72(c) are based on NYSE Arca Equities Rule 7.31P(a)(1), which provides that unexecuted Market Orders are ranked Priority 1—Market Orders. As defined in NYSE Arca Equities Rule 7.36P(e), at each price point, unexecuted Market Orders that are ranked Priority 1—Market Orders have priority over all other same-side orders with the same working price. The Exchange proposes to provide similar priority ranking of unexecuted Market Orders, which would harmonize how Market Orders behave on the two markets.

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[12] *See* Rule 2(i)—Equities (defining the term "Designated Market Maker" or "DMM" to mean an individual member, officer, partner, employee or associated person of a DMM unit who is approved by the Exchange to act in the capacity of a DMM).

[13] *See* Rule 104(j)(ii)—Equities.

[14] By contrast, the Exchange proposes that the participation of Market Orders would not change for auctions on the Exchange, including that availability of Market Orders would be made known to the DMM. *See* proposed Rule 13(a)(1)(C)(ii). DMMs are responsible for facilitating openings and reopenings and the close of trading. To comply with this requirement, the Exchange makes available to DMMs and DMM unit algorithms aggregate order information. *See* Rule 104(a)(2) and (3)—Equities.

[15] *See* Rules 15(c)—Equities and 123C(6)—Equities.

[16] *See* Rule 115A(a)(i)—Equities.

[17] *See* Rule 123C(7)—Equities.

[18] This proposed behavior for short sale Market Orders on the Exchange is based on Commentary .01(a) to NYSE Arca Equities Rule 7.35P, which provides that for purposes of pricing an auction and ranking orders for allocation in an auction, sell short Market Orders that are adjusted to a Permitted Price (as defined in Rule 7.16P(f)) will be processed as Limit Orders ranked Priority 2—Display Orders and will not be included in the Market Imbalance.

To further harmonize the behavior of Market Orders on the Exchange with the behavior of Market Orders on NYSE Arca Equities, the Exchange proposes to amend Rule 80C(a)(5)(A)—Equities regarding how Market Orders would be handled if they cannot be fully executed at or within the Limit Up-Limit Down Price Bands.[19] Currently, the Exchange would display the unexecuted portion of a buy (sell) market order at the Upper (Lower) Price Band if it cannot be fully executed at or within the Price Bands. The Exchange proposes to amend this Rule to provide that the Exchange would cancel the unexecuted portion of the buy (sell) market order if it cannot be fully executed at or within the Price Bands and would notify the member organization of the reason for such cancellation. This proposed rule text is based on NYSE Arca Equities Rule 7.11P(a)(5)(A), which provides that any untraded quantity of Market Orders that cannot be traded at prices at or within the Price Bands will be cancelled and the ETP Holder will be notified of the reason for such cancellation. In addition, because the Exchange does not offer Market Pegging Interest, the Exchange proposes a non-substantive change to delete the text in Rule 80C(a)(5)(E)—Equities relating to Market Pegging Interest and replace it with the text "Reserved."[20]

In addition, the Exchange proposes to harmonize the behavior of sell short Market Orders during a Short Sale Period with how such orders are handled on NYSE Arca Equities. Currently, Rule 440B(e)—Equities provides that short sale market orders will be re-priced by Exchange systems one minimum price increment above the current national best bid ("Permitted Price.") Because the Exchange proposes that unexecuted Market Orders would not be displayed, the Exchange proposes to amend Rule 440B(e)—Equities to provide that any unexecuted or any unexecuted portion of a short sale Market Order re-priced to a Permitted Price would rest on the Exchange's Book and be non-displayed and that they would be re-priced upward to a Permitted Price to correspond with a rise in the national best bid.[21] This proposed rule change is based on NYSE Arca Equities Rule 7.16P(f)(5)(C), which provides that Market Orders will have a working price adjusted to a Permitted Price and will continuously adjust to a Permitted Price as the NBB moves both up and down.

The Exchange also proposes to amend how Trading Collars would operate for Market Orders. Because of technology differences between the Exchange and NYSE Arca Equities, the Exchange proposes to keep the current behavior for Trading Collars, which use the NBBO as a reference price, rather than adopt the NYSE Arca Equities manner of determining Trading Collars, which use the consolidated last sale price as the reference price. Currently, Rule 1000(c)—Equities provides that Trading Collars are applicable to incoming market orders. Because as proposed, Market Orders would be re-evaluated for an execution or routing opportunity with each update to the NBBO, the Exchange proposes to apply the Trading Collar evaluation with each evaluation to trade or route an unexecuted Market Order. Accordingly, the Exchange proposes to amend Rule 1000(c)—Equities to provide that an unexecuted Market Order would be subject to a Trading Collar upon each evaluation to trade or route such order.[22]

Finally, the Exchange proposes to amend Supplementary Material .10 to Rule 13 to specify how unexecuted Market Orders would be included in the definitions of "best-priced sell interest" and "best-priced buy interest." These terms are used to describe how a Limit Order designated with an Add Liquidity Only ("ALO") Modifier will be re-priced when such Limit Order, at the time of entry, is marketable against Exchange interest or would lock or cross a protected quotation.[23] Specifically, a Limit Order designated ALO that, at the time of entry, is marketable against Exchange interest will be re-priced and displayed one MPV below the best-priced sell interest (for bids) or above the best-priced buy interest (for offers). Supplementary Material .10 to Rule 13 provides that the term best-priced sell (buy) interest refers to the lowest-priced sell (highest-priced buy) interest against which incoming buy (sell) interest would be required to execute with and/or route to, including Exchange displayed offers, Non-Display Reserve Orders, Non-Display Reserve e-Quotes, odd-lot sized sell (buy) interest, and protected offers (bids) on away markets, but does not include non-displayed sell (buy) interest that is priced based on the PBBO. The Exchange proposes to amend Supplementary Material .10 to Rule 13 to add unexecuted Market Orders to the list of interest that would be included in the term "best-priced sell interest" and "best-priced buy interest." Accordingly, if there is an unexecuted Market Order being held undisplayed at a price, an incoming opposite-side Limit Order designated ALO would be re-priced and displayed one MPV away from the working price of such unexecuted Market Order.

Proposed Deletions

The Exchange proposes to reduce complexity by reducing order type combinations that are infrequently used. As proposed, the Exchange proposes to eliminate the functionality to combine a Market Order with an IOC, buy "minus," or sell "plus" instruction.

First, to eliminate IOC instructions for Market Orders, the Exchange proposes to amend Rules 13(b)(2)(A) regarding Regulation NMS-compliant IOC Orders and 13(b)(2)(B) regarding Exchange IOC Orders to delete the references to Market Orders in the rule text. The Exchange further proposes to clarify Rule 13(b)(1) regarding the Day Modifier to specify that Market Orders can be designated Day, which is current functionality. The Exchange also proposes non-substantive, technical changes to capitalize the term "Order" in Rule 13(b)(2)(A).

Second, to eliminate tick sensitive instructions for Market Orders, the Exchange proposes to amend Rule 13(f)(4) to delete references to Market Orders and to make other non-substantive changes. Rule 13(f)(4)(A) currently provides:

> A Market Order to sell "plus" is a Market Order to sell a stated amount of a stock provided that the price to be obtained is not lower than the last sale if the last sale was a "plus" or "zero plus" tick, and is not lower than the last sale plus the minimum fractional change in the stock if the last sale was a "minus" or "zero minus" tick. A Limit Order to sell "plus" would have the additional restriction of stating the lowest price at which it could be executed.

The Exchange proposes to delete references to Market Orders in the first sentence. In addition, the Exchange proposes to delete the last sentence and instead incorporate the concept of that sentence into the prior sentence. The proposed new rule text would provide:

> An order with an instruction to sell "plus" will not trade at a price [sic] lower than the last sale if the last sale was a "plus" or "zero plus" tick, and is not [sic] lower than the last sale plus the minimum fractional change in the stock if the last sale was a "minus" or "zero minus" tick, subject to the limit price of an order, if applicable.

The Exchange proposes a similar change to Rule 13(f)(4)(C), which currently provides:

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[19] *See* Rule 80C—Equities.

[20] The Exchange also proposes a non-substantive amendment to Rule 80C(a)(5)(A)—Equities to capitalize the term "Market Order."

[21] The Exchange also proposes a non-substantive amendment to Rule 440B(e)—Equities to capitalize the term "Market Order."

[22] The Exchange also proposes a non-substantive amendment to Rule 1000(c)—Equities to capitalize the terms "Market Order" and "Limit Order."

[23] *See* Rule 13(e)(1)(B).

> A Market Order to buy "minus" is a Market Order to buy a stated amount of a stock provided that the price to be obtained is not higher than the last sale if the last sale was a "minus" or "zero minus" tick, and is not higher than the last sale minus the minimum fractional change in the stock if the last sale was a "plus" or "zero plus" tick. A Limit Order to buy "minus" would have the additional restriction of stating the highest price at which it could be executed.

The proposed new rule text, which would be set forth in Rule 13(f)(4)(B), would provide:

> An order with an instruction to buy "minus" will not trade at a price [sic] higher than the last sale if the last sale was a "minus" or "zero minus" tick, and is not [sic] higher than the last sale minus the minimum fractional change in the stock if the last sale was a "plus" or "zero plus" tick, subject to the limit price of an order, if applicable.

The Exchange further proposes to streamline the rule by deleting current Rule 13(f)(4)(B) and combining it with current Rule 13(f)(4)(D), which would be re-numbered as Rule 13(f)(4)(C).[24] Proposed Rule 13(f)(4)(C) would also specify which orders may be combined with sell "plus" and buy "minus" instructions. Accordingly, as proposed, Rule 13(f)(4)(C) would provide:

> Sell "plus" and buy "minus" instructions are available for Limit Orders, LOO Orders, LOC Orders, and MOC Orders. Orders with a buy "minus" or sell "plus" instruction that are systemically delivered to Exchange systems will be eligible to be automatically executed in accordance with, and to the extent provided by, Rules 1000–1004, consistent with the order's instructions.

As noted above, sell "plus" and buy "minus" instructions, also referred to as "tick-sensitive instructions," are currently available for Market Orders, but are also available for MOO and LOO Orders[25] and MOC and LOC Orders.[26] The Exchange proposes to clarify proposed Rule 13(f)(4)(C) to specify which orders could include tick-sensitive instructions. As proposed, Limit Orders, LOO Orders, LOC Orders and MOC Orders would continue to be eligible to be combined with a tick-sensitive instruction. As noted above, Market Orders would not be eligible to include tick-sensitive instructions, and the Exchange proposes to also exclude MOO Orders from including tick-sensitive instructions. To reflect these changes, the Exchange also proposes to amend Rule 13(c)(5) and Rule 115A(a)(1)(A) and (B)—Equities to delete references to tick-sensitive market and MOO orders. The Exchange also proposes a non-substantive amendment to Rule 115A(a)(1)(A)—Equities to capitalize the term "Market Order."

* * * * *

Because of the technology changes associated with this proposed rule change, the Exchange will announce by Trader Update the implementation date.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[27] in general, and furthers the objectives of Section 6(b)(5),[28] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would simplify how Market Orders would function on the Exchange by harmonizing the behavior of Market Orders with how they operate on the Pillar trading platform on NYSE Arca Equities. The Exchange further believes that the proposed changes would protect investors and the public interest because they are designed to prevent a Market Order from sweeping through multiple price points on the Exchange book, which may result in a Market Order executing at prices away from the prevailing quote. As proposed, a Market Order would be held undisplayed at the last contra-side NBBO price and wait for a pricing update before being eligible to trade or route again, thus reducing the potential for a Market Order to sweep through multiple price points on the Exchange's book. Instead, by waiting for updates to the NBBO before becoming eligible to trade again, a Market Order would have additional opportunity to route to Away Markets before sweeping through multiple price points on the Exchange's book.

The Exchange further believes that eliminating IOC and tick-sensitive instructions for Market Orders would remove impediments to and perfect a national market system by simplifying functionality and complexity of its order types. Specifically, these are order type combinations that are infrequently used. For example, year-to-date, both the Exchange and NYSE combined have not received any MOO Orders with tick-sensitive instructions, have not received any Market Orders with sell plus instructions, and have received only 17 Market Orders with buy minus instructions. Similarly, year-to-date, the Exchange and NYSE have received only 20 Market Orders with IOC instructions. Accordingly, the Exchange believes that eliminating these order types would be consistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from the removal of complex functionality.

The Exchange further believes that deleting corresponding references in Exchange rules to deleted order types also would remove impediments to and perfect the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the orders types available for trading on the Exchange. Removing obsolete cross references also furthers the goal of transparency and adds clarity to the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but would rather harmonize the treatment of Market Orders between the Exchange and NYSE Arca Equities and remove complex functionality and obsolete cross-references, thereby reducing confusion and making the Exchange's rules easier to understand and navigate.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section

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[24] Consistent with the proposed re-numbering of Rule 13(f)(4), current Rule 13(f)(4)(E) would be re-numbered as Rule 13(f)(4)(D), with no changes to the rule text. The Exchange proposes a non-substantive amendment to delete the second sentence of current Rule 13(f)(4)(E), which is a duplicate of the first sentence.

[25] *See* Rule 115A(1)(A) and (B)—Equities.

[26] *See* Rule 123C(7)—Equities.

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

19(b)(3)(A) of the Act[29] and Rule 19b–4(f)(6) thereunder.[30] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[31] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[32] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiving the operative delay would promote the protection of investors and the public interest because the proposed rule change would reduce the potential for a Market Order to trade at prices away from the prevailing quote and at potentially worse prices for the investor. Likewise, the Exchange believes that eliminating IOC and tick-sensitive instructions for Market Orders, without delay, would be consistent with the protection of investors and the public interest because these instructions are rarely used and their elimination would simplify the Exchange's offering of order types. The Commission believes that the proposed rule change is consistent with the protection of investors and the public interest, because the proposal would diminish the likelihood of Market Orders trading at prices that would be disadvantageous to investors, and because it would simplify the Exchange's order types by eliminating rarely used complex order functionality. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[33]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[34] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2016–54 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2016–54. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2016–54 and should be submitted on or before June 15, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–12240 Filed 5–24–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77861; File No. SR–NYSEArca–2016–67]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of Shares of the Natixis Seeyond International Minimum Volatility ETF Under NYSE Arca Equities Rule 8.600

May 19, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 ("Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on May 5, 2016, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the Natixis Seeyond International Minimum Volatility ETF under NYSE Arca Equities Rule 8.600 ("Managed Fund Shares"). The proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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[29] 15 U.S.C. 78s(b)(3)(A).

[30] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[31] 17 CFR 240.19b–4(f)(6).

[32] 17 CFR 240.19b–4(f)(6)(iii).

[33] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[34] 15 U.S.C. 78s(b)(2)(B).

[35] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares ("Shares") of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares:[4] Natixis Seeyond International Minimum Volatility ETF ("Fund").[5]

The Shares will be offered by Natixis ETF Trust (the "Trust"), which is registered with the Commission as an open-end management investment company.[6] NGAM Advisors, L.P. will serve as the investment adviser and administrator to the Fund (the "Adviser" or "Administrator"). Natixis Asset Management U.S., LLC ("Natixis AM US") will serve as the Fund's sub-adviser ("Sub-Adviser"). State Street Bank and Trust Company (the "Custodian" or "Transfer Agent") will serve as custodian and transfer agent for the Fund.

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio.[7] Commentary .06 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 in connection with the establishment of a "fire wall" between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser and Sub-Adviser are not a registered broker-dealer but are affiliated with a broker-dealer and have implemented a "fire wall" with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. In the event (a) the Adviser or any sub-adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Principal Investments

According to the Registration Statement, the Fund will seek long-term capital appreciation with less volatility than international equity markets.

Under normal circumstances,[8] the Fund will invest primarily in non-U.S. equity securities, which are the following: Common stocks and "Depositary Receipts".[9] The Fund may invest in companies of any size and typically will invest in a number of different countries throughout the world. The Fund's investments may include non-U.S. equity securities traded "over-the-counter" ("OTC") as well as those traded on a U.S. or foreign securities exchange. The portfolio may also be exposed to currencies other than the U.S. dollar.

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[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Commission has previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 62502 (July 15, 2010), 75 FR 42471 (July 21, 2010) (SR–NYSEArca–2010–57) (order approving listing and trading of AdviserShares WCM/BNY Mellon Focused Growth ADR ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving listing and trading of Cambria Global Tactical ETF); 71540 (February 12, 2014), 79 FR 9515 (February 19, 2014) (SR–NYSEArca–2013–138) (order approving listing and trading of shares of the iShares Enhanced International Large-Cap ETF and iShares Enhanced International Small-Cap ETF).

[6] The Trust is registered under the 1940 Act. On March 14, 2016, the Trust filed with the Commission its initial registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) ("Securities Act"), and under the 1940 Act relating to the Fund (File Nos. 333–210156 and 811–23146) ("Registration Statement"). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the1940 Act. *See* Investment Company Act Release No. 30654 (August 20, 2013) (File No. 812–13942–02) ("Exemptive Order").

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the "Advisers Act"). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[8] The term "under normal circumstances" includes, but is not limited to, the absence of extreme volatility or trading halts in the securities markets or the financial markets generally; circumstances under which the Fund's investments are made for temporary defensive purposes; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[9] Depositary Receipts are instruments issued by banks that represent an interest in equity securities held by arrangement with the bank. Depositary receipts can be either "sponsored" or "unsponsored." Sponsored depositary receipts are issued by banks in cooperation with the issuer of the underlying equity securities. Unsponsored depositary receipts are arranged without involvement by the issuer of the underlying equity securities and, therefore, less information about the issuer of the underlying equity securities may be available and the price may be more volatile than in the case of sponsored depositary receipts. American Depositary Receipts ("ADRs") are depositary receipts that are bought and sold in the United States and are typically issued by a U.S. bank or trust company which evidence ownership of underlying securities by a foreign corporation. Investments in common stock of foreign corporations may be in the form of ADRs and Global Depositary Receipts ("GDRs") (collectively

When building and managing the Fund's portfolio, the Sub-Adviser will employ both quantitative and qualitative factors in an effort to identify securities that demonstrate lower volatility and, in combination with other securities, reduce the Fund's overall volatility relative to the developed international equity market. In assessing the following three quantitative factors, the Sub-Adviser will consider both long and short term time horizons that it believes will enable the Fund to reduce overall volatility: (1) The volatility of each individual equity security; (2) the correlation of each individual equity security to all other equity securities in the Fund's investment universe, as defined by international developed market equities; and (3) the weight of each equity security within the portfolio.

Through a qualitative assessment the Sub-Adviser will review a range of factors including company specific risks as well as overall portfolio construction and implementation considerations. Taken together, the quantitative and qualitative process seeks to generate returns while lowering overall portfolio volatility.

The Sub-Adviser will construct the Fund's portfolio using a three step process, described below. The Sub-Adviser first will conduct a preliminary review of the equity securities within the investment universe, as defined by international developed market equities. Developed markets are economies that the Adviser believes are generally recognized to be fully developed markets, as measured by gross national income, financial market capitalization and/or other factors. This initial filtering is designed to exclude dual listings and eliminate stocks that the Sub-Adviser believes have insufficient history, liquidity and country-specific risk, such as corporate actions, mergers or acquisitions.

In seeking to minimize the overall volatility of the Fund, the Sub-Adviser will construct a portfolio that is systematically guided by proprietary quantitative analysis, which makes an assessment of historical volatilities and correlations within the investment universe and then estimates which combination of such stocks has the potential to display the lowest overall portfolio volatility.

The Sub-Adviser then will actively manage the portfolio by continuously monitoring for changes in volatility, liquidity and individual risk factors with the goal of avoiding detrimental risk concentration. The Sub-Adviser may sell a security when it believes that a security has acquired substantial exposure to a specific risk factor.

Other Investments

While the Fund, under normal circumstances, will invest primarily (more than 50% of its assets) in non-U.S. equity securities, as described above, the Fund will invest its remaining assets in the securities and financial instruments described below.

The Fund may invest in certificates of deposit (certificates representing the obligation of a bank to repay funds deposited with it for a specified period of time), time deposits (non-negotiable deposits maintained in a bank for a specified period of time up to seven days at a stated interest rate), and bankers' acceptances (credit instruments evidencing the obligation of a bank to pay a draft drawn on it by a customer).

The Fund also may purchase U.S. dollar-denominated obligations issued by foreign branches of domestic banks or foreign branches of foreign banks ("Eurodollar" obligations) and domestic branches of foreign banks ("Yankee dollar" obligations).

The Fund may invest in the following U.S. government securities: U.S. Treasury Bills; U.S. Treasury Notes and Bonds; U.S. Treasury Floating Rate Notes; and Treasury Inflation-Protected Securities ("TIPS").

The Fund may invest in other investment companies, including exchange-traded funds ("ETFs").[10] Investments in investment companies are typically subject to limitations prescribed by the 1940 Act.

The Fund may invest in preferred stock traded on a U.S. or foreign exchange or OTC.

The Fund may invest in U.S. or foreign exchange-traded real estate investment trusts ("REITs"), which are pooled investment vehicles that invest primarily in either real estate or real estate-related loans.

The Fund may invest in registered closed-end investment companies that invest in foreign securities.

The Fund may invest in foreign debt securities. Foreign debt securities may include securities of issuers organized or headquartered outside the U.S. as well as obligations of supranational entities. The non-U.S. securities in which the Fund may invest, all or a portion of which may be non-U.S. dollar-denominated, may include, among other investments: (i) Debt obligations issued or guaranteed by non-U.S. national, provincial, state, municipal or other governments or by their agencies or instrumentalities, including "Brady Bonds"; (ii) debt obligations of supranational entities; (iii) debt obligations of the U.S. government issued in non-dollar securities; (iv) debt obligations and other fixed-income securities of foreign corporate issuers; and (v) non-U.S. dollar-denominated securities of U.S. corporate issuers.

The Fund may engage in foreign currency transactions for both hedging and investment purposes. Foreign securities in the Fund's portfolio may be denominated in foreign currencies or traded in securities markets in which settlements are made in foreign currencies.

To protect against a change in the foreign currency exchange rate between the date on which the Fund contracts to purchase or sell a security and the settlement date for the purchase or sale, to gain exposure to one or more foreign currencies or to "lock in" the equivalent of a dividend or interest payment in another currency, the Fund might purchase or sell a foreign currency on a spot (*i.e.*, cash) basis at the prevailing spot rate.

The Fund may enter into repurchase agreements.

The Fund may invest in money market instruments. Money market instruments are high-quality, short-term

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"Depositary Receipts"). Depositary Receipts are receipts, typically issued by a bank or trust company, which evidence ownership of underlying securities issued by a foreign corporation. For ADRs, the depository is typically a U.S. financial institution and the underlying securities are issued by a foreign issuer. For other Depositary Receipts, the depository may be a foreign or a U.S. entity, and the underlying securities may have a foreign or a U.S. issuer. Depositary Receipts will not necessarily be denominated in the same currency as their underlying securities. Generally, ADRs, in registered form, are designed for use in the U.S. securities market. GDRs are tradable both in the United States and in Europe and are designed for use throughout the world. Not more than 10% of the Fund's assets will be invested in non-exchange-listed ADRs.

[10] For purposes of this filing, ETFs consist of Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100; and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). All ETFs will be listed and traded in the U.S. on a national securities exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.*, 2X, −2X, 3X or −3X) ETFs.

securities. The Fund's money market investments at the time of purchase (other than U.S. government securities and repurchase agreements relating thereto) generally will be rated at the time of purchase in the two highest short-term rating categories as rated by a major credit agency or, if unrated, will be of comparable quality as determined by the Sub-Adviser. The Fund may invest in instruments of lesser quality and do not have any minimum credit quality restriction.

The Fund may invest in U.S. equity securities (other than Depositary Receipts) that are traded on a U.S. exchange or OTC.

To reduce the risk of changes in interest rates and securities prices, the Fund may purchase securities on a forward commitment or when-issued or delayed delivery basis, which means delivery and payment take place a number of days after the date of the commitment to purchase.

Net Asset Value

According to the Registration Statement, a Share's NAV will be determined at the close of regular trading on the New York Stock Exchange ("NYSE") on the days the NYSE is open for trading, normally at 4:00 p.m., Eastern time. Fund securities and other investments for which market quotations are readily available will be valued at market value. The Fund may use independent pricing services recommended by the Adviser and approved by the Board of Trustees to obtain market quotations.

Fund securities and other investments will be valued at market value based on market quotations obtained or determined by independent pricing services recommended by the Adviser and approved by the Board of Trustees. Fund securities and other investments for which market quotations are not readily available, or which are deemed to be unreliable by the Adviser, will be valued at fair value as determined in good faith by the Adviser pursuant to procedures approved by the Board of Trustees, as described below. Market value will be determined as follows:

Exchange-listed equity securities will be valued at the last sale price quoted on the exchange where they are traded most extensively or, if there is no reported sale during the day, the closing bid quotation. Securities traded on the NASDAQ Global Select Market, NASDAQ Global Market and NASDAQ Capital Market are valued at the NASDAQ Official Closing Price ("NOCP"), or if lacking an NOCP, at the most recent bid quotations on the applicable NASDAQ Market. OTC equity securities will be valued at the last sale price quoted in the market where they are traded most extensively or, if there is no reported sale during the day, the closing bid quotation as reported by an independent pricing service. If there is no sale price or closing bid quotation available unlisted equity securities will be valued using evaluated bids furnished by an independent pricing service, if available. In some foreign markets, an official close price and a last sale price may be available from the foreign exchange or market. In those cases, the official close price is used. Valuations from foreign markets are subject to the Fund's fair value policies described below.

Eurodollar obligations, Yankee dollar obligations, U.S. government securities, money market instruments, repurchase agreements, foreign debt securities, certificates of deposit, time deposits, and bankers' acceptances, will be valued based on evaluated bids furnished to the Fund by an independent pricing service using market information, transactions for comparable securities and various relationships between securities, if available, or bid prices obtained from broker-dealers.

Foreign denominated assets and liabilities will be translated into U.S. dollars based upon foreign exchange rates supplied by an independent pricing service. Fund securities and other investments for which market quotations are not readily available will be valued at fair value as determined in good faith by the Adviser pursuant to procedures approved by the Board of Trustees. The Fund may also value securities and other investments at fair value in other circumstances such as when extraordinary events occur after the close of a foreign market but prior to the close of the NYSE. This may include situations relating to a single issuer (such as a declaration of bankruptcy or a delisting of the issuer's security from the primary market on which it has traded) as well as events affecting the securities markets in general (such as market disruptions or closings and significant fluctuations in U.S. and/or foreign markets).

Fair value pricing may require subjective determinations about the value of a security, and fair values used to determine the Fund's NAV may differ from quoted or published prices, or from prices that are used by others, for the same securities. In addition, the use of fair value pricing may not always result in adjustments to the prices of securities held by the Fund. Valuations for securities traded in the OTC market may be based on factors such as market information, transactions for comparable securities, and various relationships between securities or bid prices obtained from broker-dealers. Evaluated prices from an independent pricing service may require subjective determinations and may be different than actual market prices or prices provided by other pricing services.

Trading in some of the portfolio securities or other investments of the Fund takes place in various markets outside the United States on days and at times other than when the NYSE is open for trading. Therefore, the calculation of the Fund's NAV does not take place at the same time as the prices of many of its portfolio securities or other investments are determined, and the value of the Fund's portfolio may change on days when the Fund is not open for business and its shares may not be purchased or redeemed.

Investment company securities that are not exchange-traded will be valued at NAV.

Creation and Redemption of Shares

According to the Registration Statement, Shares of the Fund will be "created" at NAV by market makers, large investors and institutions only in block-size "Creation Units" of 50,000 Shares or multiples thereof. The size of a Creation Unit is subject to change. Each "creator" or "Authorized Participant" will enter into an authorized participant agreement with the Fund's distributor.

A creation transaction, which is subject to acceptance by the Fund's distributor, generally takes place when an Authorized Participant deposits into the Fund a designated portfolio of securities (including any portion of such securities for which cash may be substituted) and a specified amount of cash approximating the holdings of the Fund in exchange for a specified number of creation units.

Similarly, Shares can be redeemed only in Creation Units, generally for a designated portfolio of securities (including any portion of such securities for which cash may be substituted) held by the Fund and a specified amount of cash. Except when aggregated in Creation Units, Shares will not be redeemable by the Fund.

The prices at which creations and redemptions occur are based on the next calculation of NAV after a creation or redemption order is received in an acceptable form under the Authorized Participant agreement.

Only an Authorized Participant may create or redeem creation units directly with the Fund.

Creations and redemptions must be made through a firm that is either a member of the Continuous Net Settlement System of the National Securities Clearing Corporation or a DTC participant and has executed an agreement with the Fund's distributor with respect to creations and redemptions of Creation Units.

The consideration for purchase of Creation Units generally will consist of Deposit Securities and the Cash Component, which will generally correspond pro rata, to the extent practicable, to the Fund securities, or, as permitted by the Fund, the Cash Deposit. Together, the Deposit Securities and the Cash Component or, alternatively, the Cash Deposit, constitute the "Fund Deposit," which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The portfolio of securities required may, in certain limited circumstances, be different than the portfolio of securities the Fund will deliver upon redemption of Fund Shares.

The function of the Cash Component is to compensate for any differences between the NAV per Creation Unit and the "Deposit Amount" (as defined below). The Cash Component would be an amount equal to the difference between the NAV of the shares (per Creation Unit) and the "Deposit Amount," which is an amount equal to the market value of the Deposit Securities. If the Cash Component is a positive number (the NAV per Creation Unit exceeds the Deposit Amount), the Authorized Participant will deliver the Cash Component. If the Cash Component is a negative number (the NAV per Creation Unit is less than the Deposit Amount), the Authorized Participant will receive the Cash Component. Computation of the Cash Component excludes any stamp duty or other similar fees and expenses payable upon transfer of beneficial ownership of the Deposit Securities, which shall be the sole responsibility of the Authorized Participant. The Cash Component may also include a "Dividend Equivalent Payment," which enables the Fund to make a complete distribution of dividends on the next dividend payment date. State Street Bank and Trust Company, through the National Securities Clearing Corporation ("NSCC"), will make available on each business day, prior to the opening of business (subject to amendments) on the Exchange (currently 9:30 a.m., Eastern time), the identity and the required number of each Deposit Security and the amount of the Cash Component to be included in the current Fund Deposit (based on information at the end of the previous business day).

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form on a business day and only through a Participating Party or DTC Participant who has executed a Participant Agreement. State Street, through the NSCC, will make available immediately prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern time) on each business day, the identity of the Fund's securities and/or an amount of cash that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. All orders are subject to acceptance by the Transfer Agent. The Fund's securities received on redemption will generally correspond pro rata, to the extent practicable, to such Fund's securities. The Fund's securities received on redemption ("Fund Securities") may not be identical to Deposit Securities that are applicable to creations of Creation Units.

Unless cash only redemptions are available or specified for the Fund, the redemption proceeds for a Creation Unit will generally consist of Fund Securities—as announced on the business day of the request for a redemption order received in proper form—plus cash in an amount equal to the difference between the NAV of the shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities, less the redemption transaction fee and variable fees described below.[11] Notwithstanding the foregoing, the Trust will substitute a "cash-in-lieu" amount to replace any Fund Security that is a non-deliverable instrument. The Trust may permit a "cash-in-lieu" amount for any reason at the Trust's sole discretion but is not required to do so. The amount of cash paid out in such cases will be equivalent to the value of the instrument listed as a Fund Security. In the event that the Fund Securities have a value greater than the NAV of the shares, a compensating cash payment equal to the difference.

The right of redemption may be suspended or the date of payment postponed with respect to the Fund: (i) For any period during which the Exchange is closed (other than customary weekend and holiday closings); (ii) for any period during which trading on the Exchange is suspended or restricted; (iii) for any period during which an emergency exists as a result of which disposal by the Fund of securities it owns or determination of the Fund's NAV is not reasonably practicable; or (iv) in such other circumstances as permitted by the Commission.

Investment Restrictions

As a temporary defensive measure, the Fund may hold any portion of its assets in cash (U.S. dollars, foreign currencies or multinational currency units) and/or invest in money market instruments or high-quality debt securities as it deems appropriate.

The Fund intends to maintain the required level of diversification and otherwise conduct its operations so as to qualify as a "regulated investment company" for purposes of the Internal Revenue Code of 1986.[12]

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment). The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[13]

The Fund will not invest in options, futures or swaps.

The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A).[14]

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[11] The Adviser represents that, to the extent the Trust effects the creation or redemption of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

[12] 26 U.S.C. 851.

[13] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding "Restricted Securities"); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the 1933 Act).

Availability of Information

The Fund's Web site, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's Web site will include additional quantitative information updated on a daily basis, including, for the Fund (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),[15] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for the Fund's calculation of NAV at the end of the business day.[16]

On a daily basis, the Fund will disclose for each portfolio security or other financial instrument of the Fund the following information on the Fund's Web site: Ticker symbol (if applicable), name of security and financial instrument, number of shares and dollar value of financial instruments held in the portfolio, and percentage weighting of the security and financial instrument in the portfolio. The Web site information will be publicly available at no charge.

In addition, a basket composition file, which includes the security names and share quantities required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE via NSCC. The basket represents one Creation Unit of the Fund.

In order to provide additional information regarding the indicative value of Shares of the Fund, the Exchange or a market data vendor will disseminate every 15 seconds through the facilities of the Consolidated Tape Association, or through other widely disseminated means, an updated IIV for the Fund as calculated by an information provider or market data vendor.

The Fund's IIV will be based on the current market value of the Fund's portfolio holdings that will form the basis of the Fund's calculation of NAV at the end of the business day as disclosed on the Fund's Web site prior to the business day's commencement of trading.

Investors can also obtain the Trust's Statement of Additional Information ("SAI"), the Fund's Shareholder Reports, and the Trust's Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the Consolidated Tape Association ("CTA") high-speed line. With respect to U.S. exchange-listed equity securities, the intra-day, closing and settlement prices of common stocks and exchange-traded equity securities (including shares of preferred securities, closed-end funds, REITs and U.S. exchange-listed Depositary Receipts) will be readily available from the national securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. With respect to non-U.S. exchange-listed equity securities, intra-day, closing and settlement prices of common stocks and other equity securities (including shares of preferred securities, and non-U.S. Depositary Receipts), will be available from the foreign exchanges on which such securities trade as well as from major market data vendors. Pricing information regarding each asset class in which the Fund will invest will generally be available through nationally recognized data service providers through subscription arrangements. Quotation information from brokers and dealers or pricing services will be available for Eurodollar obligations, Yankee dollar obligations, U.S. government securities, repurchase agreements, money market instruments, foreign debt securities, certificates of deposit, time deposits, and bankers' acceptances; unsponsored Depositary Receipts; and spot currency transactions held by the Fund. In addition, IIV,[17] which is the Portfolio Indicative Value as defined in NYSE Arca Equities Rule 8.600 (c)(3), will be widely disseminated at least every 15 seconds during the Exchange's Core Trading Session by one or more major market data vendors.[18] The dissemination of the IIV, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to provide a close estimate of that value throughout the trading day.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.[19] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

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[14] The Fund's broad-based securities benchmark index will be identified in a future amendment to the Registration Statement following the Fund's first full calendar year of performance.

[15] The Bid/Ask Price of Shares of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and their service providers.

[16] Under accounting procedures followed by the Fund, trades made on the prior business day ("T") will be booked and reflected in NAV on the current business day ("T + 1"). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[17] The IIV calculation will be an estimate of the value of the Fund's NAV per Share using market data converted into U.S. dollars at the current currency rates. The IIV price will be based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close. Premiums and discounts between the IIV and the market price of the Shares may occur. This should not be viewed as a "real-time" update of the NAV per Share of the Fund, which will be calculated only once a day.

[18] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIVs taken from CTA or other data feeds.

[19] *See* NYSE Arca Equities Rule 7.12.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. Eastern time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3[20] under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Exchange or Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[21] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and certain exchange-traded securities underlying the Shares with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG"), and the Exchange or FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and certain exchange-traded securities underlying the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and certain exchange-traded securities underlying the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[22] The Exchange is able to access from FINRA, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine ("TRACE").

Not more than 10% of the net assets of the Fund in the aggregate invested in equity securities (other than non-exchange-traded investment company securities) shall consist of equity securities whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Equities Rule 5.5(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin ("Bulletin") of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value and the Disclosed Portfolio is disseminated; (5) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. Eastern time each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[23] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

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[20] 17 CFR 240.10A–3.

[21] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[22] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[23] 15 U.S.C. 78f(b)(5).

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Adviser has implemented a "fire wall" with respect to its affiliated broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and certain exchange-traded securities underlying the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and certain exchange-traded securities underlying the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and certain exchange-traded securities underlying the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a CSSA. The Exchange is able to access from FINRA, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE. The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment. The Fund will not invest in options, futures or swaps. The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. The Fund's portfolio holdings will be disclosed on its Web site daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. Moreover, the IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. Not more than 10% of the net assets of the Fund in the aggregate invested in equity securities (other than non-exchange-traded investment company securities) shall consist of equity securities whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. The intra-day, closing and settlement prices of the portfolio securities are also readily available from the national securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an actively-managed exchange-traded product that will principally hold non U.S. equity securities and that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2016–67 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2016–67. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal offices of the Exchange and on its Internet Web site at *www.nyse.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2016–67, and should be submitted on or before June 15, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–12242 Filed 5–24–16; 8:45 am]

BILLING CODE 8011–01–P

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[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77858; File No. SR–NYSEArca–2016–66]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Reflecting a Change to the Means of Achieving the Investment Objective With Respect to the AdvisorShares EquityPro ETF

May 19, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 5, 2016, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reflect a change to the means of achieving the investment objective with respect to the AdvisorShares EquityPro ETF. Shares of the AdvisorShares EquityPro ETF are currently listed and traded on the Exchange. The proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved listing and trading on the Exchange of shares ("Shares") of the AdvisorShares EquityPro ETF (formerly, the Global Alpha & Beta ETF) ("Fund"), a series of AdvisorShares Trust ("Trust")[4] under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares. Shares of the Fund are currently listed and traded on the Exchange.

The Shares are offered by the Trust, which is registered with the Commission as an open-end management investment company.[5] The investment advisor to the Fund is AdvisorShares Investments, LLC (the "Adviser"). The sub-adviser for the Fund is Elements Financial, PLC (the "Sub-Adviser"). Neither the Adviser nor the Sub-Adviser is a registered broker-dealer or is affiliated with a broker-dealer.

In this proposed rule change, the Exchange proposes to reflect a change to the means the Adviser will utilize to implement the Fund's investment objective to permit investments in U.S. exchange-traded futures contracts, as described below.

The First Prior Release stated that the Fund's investment objective is long-term capital growth. The First Prior Release further stated that the Fund will not invest in options contracts, futures contracts, or swap agreements. The Second Prior Release stated that the Fund may invest up to 10% of the Fund's net assets in the following types of options: U.S. exchange-listed index options; U.S. exchange-listed individual stock options; or U.S. exchange-listed exchange-traded fund ("ETF") options.

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[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release Nos. 67277 (June 27, 2012), 77 FR 39554 (July 3, 2012) (SR–NYSEArca–2012–39) ("Prior Order"); 66973 (May 11, 2012), 77 FR 29429 (May 17, 2012) (SR–NYSEArca–2012–39) ("Prior Notice," and together with the Prior Order, the "First Prior Release"). *See also* Securities Exchange Act Release No. 72436 (June 19, 2014), 79 FR 36118 (June 25, 2014) (SR–NYSEArca–2014–70) ("Second Prior Release") (notice of effectiveness of proposed rule change regarding the Fund's use of certain U.S. exchange-listed options).

[5] The Trust is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1). On November 1, 2015, the Trust filed with the Commission an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333–157876 and 811–22110) ("Registration Statement"). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 29291) (May 28, 2010) (File No. 812–13677) ("Exemptive Order").

Going forward, the Adviser wishes to revise the representations in the First Prior Release and the Second Prior Release to state that the Fund, in addition to investments in U.S. exchange-listed options, as described above, may invest up to 10% of the Fund's net assets in U.S. exchange-traded stock index futures on broad based indexes, such as futures on the S&P 500 Index. All futures contracts in which the Fund may invest will be traded on U.S. futures exchanges. Such futures contracts will be traded only on futures exchanges that are members of the Intermarket Surveillance Group ("ISG"). The Fund may seek to invest in futures contracts in order to gain market exposure and/or to hedge against a market decline.[6]

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Exchange or the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[7] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. The Fund's investment in futures will not be used to enhance leverage.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in futures (in addition to the exchange-traded assets referenced in the First Prior Release and Second Prior Release) with other markets and other entities that are members of the ISG,[8] and the Exchange and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in futures (in addition to the exchange-traded assets referenced in the First Prior Release and Second Prior Release) from such markets and other entities. In addition, the Exchange may obtain information regarding trading in futures (in addition to the exchange-traded assets referenced in the First Prior Release and Second Prior Release) from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

For purposes of calculating net asset value ("NAV") of Shares of the Fund, futures contracts will generally be valued at the settlement price of the relevant exchange on the day of valuation. Quotation and last sale information for futures contracts will be available from the exchanges on which they trade or from major market data vendors.

The Adviser represents that there is no change to the Fund's investment objective. The Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600.

Except for the changes noted above, all other facts presented and representations made in the First Prior Release and Second Prior Release remain unchanged.

All terms referenced but not defined herein are defined in the First Prior Release and Second Prior Release.

The Exchange notes that the Commission has previously approved for listing other actively-managed exchange-traded funds that invest in U.S. exchange-traded futures.[9]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[10] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Adviser represents that there is no change to the Fund's investment objective. The Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600. All futures in which the Fund will invest will be traded on U.S. futures exchanges, all of which are members of ISG.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, and is designed to promote just and equitable principles of trade and to protect investors and the public interest, in that the Adviser represents that there is no change to the Fund's investment objective. All futures in which the Fund will invest will be traded on a U.S futures exchange. The Fund's investment in futures will not be used to enhance leverage. The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in futures (in addition to the exchange-traded assets referenced in the First Prior Release and Second Prior Release) with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, may obtain trading information regarding trading in futures (in addition to the exchange-traded assets referenced in the First Prior Release and Second Prior Release) from such markets and other entities. In addition, the Exchange may obtain information regarding trading in futures (in addition to the exchange-traded assets referenced in the First Prior Release and Second Prior Release) from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that the Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600. The Adviser represents that there is no change to the Fund's investment objective. Except for the changes noted above, all other representations made in the First Prior Release and Second Prior Release remain unchanged.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes will accommodate continued listing and trading of an issue of Managed Fund Shares that, under normal conditions, principally holds large-capitalization, U.S. exchange-listed equities.

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[6] The changes described herein will be effective contingent upon effectiveness of an amendment to the Trust's Registration Statement. *See supra,* note 5. The Adviser represents that the Adviser and the Sub-Adviser have managed and will continue to manage the Fund in the manner described in the First Prior Release and the Second Prior Release, and the Fund will not implement the proposed amendment described herein until the instant proposed rule change is operative.

[7] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[8] For a list of the current members of ISG, *see www.isgportal.org.*

[9] *See, e.g.,* Securities Exchange Act Release No. 67552 (August 1, 2012), 77 FR 47131 (August 7, 2012) (SR–NYSEArca–2012–55) (order approving listing and trading on the Exchange of the STAR Global Buy-Write ETF under NYSE Arca Equities Rule 8.600).

[10] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange argues that waiver of this requirement is consistent with the protection of investors and the public interest because the proposed change will permit the Fund to more efficiently implement its risk strategy, and, depending on market conditions, to hedge market risk or to provide an opportunity for enhanced returns, which may be to the benefit of investors. The Commission notes that, other than the change proposed herein, no other changes are being made with respect to the Fund, and all other representations made in the First Prior Release and Second Prior Release remain unchanged. The proposal would: (1) Permit the Fund to invest in U.S. exchange-traded stock index futures on broad based indexes, such as futures on the S&P 500 Index; (2) confine all futures contracts in which the Fund may invest to be traded only on U.S. futures exchanges that are members of the ISG; and (3) limit the Fund's investments in futures contracts to 10% of the Fund's net assets. The Commission believes that the proposed change raises no new or novel regulatory issues and would allow the Fund to employ an additional strategy that would be consistent with the strategy of other Managed Fund Shares without undue delay.[13] Thus, the Commission believes that waiver of the 30-day operative delay with respect to the proposed change to the Fund is consistent with the protection of investors and the public interest. The Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2016–66 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2016–66. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2016–66 and should be submitted on or before June 15, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–12239 Filed 5–24–16; 8:45 am]

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[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] *See, e.g.*, Securities Exchange Act Release No. 77620 (April 14, 2016), 81 FR 23339 (April 20, 2016) (SR–BATS–2015–124) (order approving listing and trading of the REX VolMAXX Long VIX Weekly Futures Strategy ETF and the REX VolMAXX Inverse VIX Weekly Futures Strategy ETF of the Exchange Traded Concepts Trust) and *supra*, note 9.

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77853; File No. SR–MIAX–2016–11]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 100 Concerning Professional Customers

May 19, 2016.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 6, 2016, Miami International Securities Exchange LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the definition of Priority Customer in Exchange Rule 100 (Definitions), and to make a technical change to correct a typographical error in the rule text.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the definition of "Priority Customer" in Rule 100 (Definitions) and to add Interpretations and Policies .01 thereto to specify the manner in which the Exchange will calculate the number of orders submitted by a MIAX participant to determine if such orders should be designated as Priority Customer[3] or Professional Interest[4] orders. The Exchange believes that the proposed rule change would provide additional clarity in the Exchange's Rules and serve to promote the purposes for which the Exchange originally adopted its Priority Customer and Professional Interest rules. This filing is based upon proposals recently submitted by Chicago Board Options Exchange, Incorporated ("CBOE")[5] and NASDAQ OMX PHLX LLC ("PHLX")[6] and approved by the Commission.

Background

In general, certain customers that are not "industry professionals", Market Makers or brokers and dealers of securities are granted certain marketplace advantages on most U.S. options exchanges over other market participants, including over those customers that are industry professionals, Market Makers or broker-dealers. The U.S. options exchanges generally categorize persons or entities that are not brokers or dealers in securities that place more than 390 orders per day on average during a calendar month for their own beneficial account(s) to be "industry professionals". Various exchanges refer to persons or entities that meet or exceed the 390 orders per day threshold as "professionals" or "professional customers",[7] while other exchanges refer to orders placed for such customers' beneficial account(s) to be "professional orders" or "professional interests".[8] Various exchanges adopted similar rules relating to orders placed by or for these industry professionals for many of the same reasons, including, but not limited to the desire to create more competitive marketplaces and attract retail order flow.[9] In addition, several of the exchanges noted in their original professional order rule filings, their beliefs that disparate professional order rules and a lack of uniformity in the application of such rules across the options markets would not promote the best regulation and may, in fact, encourage regulatory arbitrage.[10]

Similar to other U.S. options exchanges, the Exchange grants its Priority Customers certain marketplace advantages over other market participants pursuant to the Exchange's Fee Schedule[11] and Rules.[12] In general, Priority Customers receive allocation and execution priority above equally priced competing interests of Market Makers, broker-dealers, and other market participants. In addition, Priority Customer Orders are generally exempt from transaction fees.

The Exchange currently defines a "Professional Interest" in relevant part as an order that is for the account of a person or entity that is not a Priority Customer.[13] The Exchange's Priority Customer and Professional Interest rules were adopted to distinguish non-broker dealer individuals and entities that have access to information and technology that enable them to professionally trade listed options in a manner similar to brokers or dealers in securities, from retail investors for order priority and/or transaction fees purposes. In general, Professional Interest orders are treated in the same manner as the orders of broker-dealers under the Exchange's Rules, including but not limited to, rules governing execution priority and fees.[14] MIAX's average daily order threshold of 390 orders per day is substantially similar to the distinction made by professional order rules of other exchanges and was materially based upon the preexistent professional order rules of other exchanges.[15]

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[3] The term "Priority Customer" means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 listed options orders per day on average during a calendar month for its own beneficial account(s). The term "Priority Customer Order" means an order for the account of a Priority Customer. *See* Exchange Rule 100 (Definitions).

[4] The term "Professional Interest" means (i) an order that is for the account of a person or entity that is not a Priority Customer, or (ii) an order or non-priority quote for the account of a Market Maker. *See* Exchange Rule 100 (Definitions).

[5] *See* Securities Exchange Act Release No. 77450 (March 25, 2016), 81 FR 18668 (March 31, 2016) (Order Approving SR–CBOE–2016–005).

[6] *See* Securities Exchange Act Release No. 77449 (March 25, 2016), 81 FR 18665 (March 31, 2016) (Order Approving SR–PHLX–2016–10).

[7] *See* BATS Exchange, Inc. ("BZX") Rule 16.1(a)(45) (Professional); BOX Options Exchange LLC ("BOX") Rule 100(a)(50) (Professional); CBOE Rule 1.1(ggg) (Professional); C2 Rule 1.1; BX Chapter I, Sec. 1(49) (Professional); PHLX Rule 1000(b)(14) (Professional); and Nasdaq Options Market ("NOM") Chapter I, Sec. 1(a)(48) (Professional). *See also* NYSE MKT LLC ("NYSE MKT") Rule 900.2NY(18A) (Professional Customer); and NYSE Arca, Inc. ("Arca") Rule 6.1A(4A) (Professional Customer).

[8] *See* ISE Rule 100(a)(37C) (Professional Order); ISE Gemini, LLC ("Gemini") Rule 100(a)(37C) (Professional Order); and MIAX Rule 100 (Professional Interest).

[9] *See, e.g.,* Securities Exchange Act Release No. 60931 (November 4, 2009), 74 FR 58355, 58356 (November 12, 2009) (Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Related to Professional Orders) (SR–CBOE 2009–078); Securities Exchange Act Release No. 59287 (January 23, 2009), 74 FR 5694, 5694 (January 30, 2009) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of the Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, Relating to Professional Account Holders) (SR–ISE–2006–026); Securities Exchange Act Release No. 61802 (March 30, 2010), 75 FR 17193, 17194 (April 5, 2010) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 2 Thereto, Relating to Professional Orders) (SR–PHLX–2010–005); Securities Exchange Act Release No. 61629 (March 2, 2010), 75 FR 10851, 10851 (March 9, 2010) (Notice of Filing of Proposed Rule Change Relating to the Designation of a "Professional Customer") (SR–NYSEMKT–2010–018).

[10] *See, e.g.,* Securities and Exchange Act Release No. 62724 (August 16, 2010), 75 FR 51509 (August 20, 2010) (Notice of Filing of a Proposed Rule Change by the NASDAQ Stock Market LLC To Adopt a Definition of Professional and Require That All Professional Orders Be Appropriately Marked) (SR–NASDAQ–2010–099); Securities and Exchange Act Release No. 65500 (October 6, 2011), 76 FR 63686 (October 13, 2011) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Definition of Professional and Require That All Professional Orders Be Appropriately Marked) (SR–BATS–2011–041); Securities Exchange Act Release No. 65036 (August 4, 2011), 76 FR 49517, 49518 (August 10, 2011) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Definition of "Professional" and Require That Professional Orders Be Appropriately Marked by BOX Options Participants) (SR–BX–2011–049); Securities Exchange Act Release No. 60931 (November 4, 2009), 74 FR 58355, 58357 (November 12, 2009) (Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Related to Professional Orders) (SR–CBOE 2009–078); *see also* Securities Exchange Act Release 73628 (November 18, 2014), 79 FR 69958, 69960 (November 24, 2014) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Professional Orders) (SR–CBOE–2014–085).

[11] *See, e.g.,* MIAX Options Fee Schedule.

[12] Priority Customer Orders have priority over Professional Interest and all Market Maker interest at the same price. *See* Exchange Rule 514(d) (Priority of Quotes and Orders); *see also* 515A (MIAX Price Improvement Mechanism ("PRIME") and PRIME Solicitation Mechanism) (a)(2)(iii) (PRIME Auction Order Allocation) and (b)(2)(iii) (PRIME Solicitation Mechanism Order Allocation).

[13] *See* supra note 4.

In September 2014, the Exchange clarified its Priority Customer Order and Professional Interest distinctions by issuing a Regulatory Circular to its Members[16] summarizing the requirements for determining the designation of orders as Priority Customer or Professional Interest. For example, the Regulatory Circular codified the Exchange's interpretation that for order counting purposes, a "parent" order that is broken up into multiple "child" orders by an individual at a broker or dealer, or by an algorithm housed at a broker or dealer, at a single price, should count as one single order. This interpretation was a clarification of Exchange Rules based on the Exchange's past interpretations of the definitions of Priority Customer and Professional Interest under Rule 100.

The Exchange's Regulatory Circular, however, has not clarified the Exchange's Priority Customer and Professional Interest rules completely. The advent of new multi-leg spread products and the proliferation of the use of complex orders and algorithmic execution strategies by both institutional and retail market participants continue to raise questions as to what constitutes an "order" for professional order counting purposes. For example, do multi-leg spread orders or strategy orders constitute a single order or multiple orders for professional order counting purposes? The Exchange's Rules do not fully address these issues and there is no common interpretation across the U.S. options markets. The Exchange believes that additional clarity is needed regarding professional order counting. Accordingly, the Exchange is proposing to amend its definition of a Priority Customer and to add Interpretations and Policies .01 to such definition to address how various new execution and order strategies should be treated under the Exchange's Rules.

Moreover, the Exchange believes that the proposed rule change would better serve to accomplish the Exchange's goals for its Priority Customer and Professional Interest rules. Based upon current order counting methodology under these Rule 100 definitions, many market participants who are not broker-dealers but nevertheless use sophisticated execution strategies and trading algorithms such that they would typically be considered "industry professionals" or "professional traders" are not captured by the Exchange's Professional Interest rule and are instead treated as Priority Customers. The Exchange believes that these types of market participants have access to technology and market information akin to broker-dealers, unlike typical retail market participants. The Exchange's Priority Customer and Professional Interest rules were designed to differentiate between the foregoing market participants. The Exchange therefore believes that a new Interpretations and Policies to the definition of Priority Customer under Rule 100 is warranted to ensure that Priority Customers are afforded the marketplace advantages that they are intended to be afforded over other types of market participants on the Exchange.

The Exchange notes that despite the adoption of materially similar professional order rules across the markets, there is no consistent definition across the markets as to what constitutes an "order" for professional order counting purposes. While several options exchanges, including MIAX, have attempted to clarify their interpretations of their professional order counting rules through regulatory and information notices and circulars,[17] many of the options exchanges have not adopted rules regarding the application of their professional order counting methodologies. Furthermore, where exchanges have issued interpretive guidance, those interpretations have not necessarily been consistent.[18] As a result, the Exchange believes that the lack of uniformity amongst the exchanges' professional order counting methodologies may not promote the best regulation and in fact may encourage regulatory arbitrage.

Proposal

The Exchange proposes to add additional details to the definition of Priority Customer under Rule 100, including a new Interpretations and Policies setting forth a more detailed counting regime for calculating average daily orders for Priority Customer and Professional Interest order counting purposes. Specifically, the Exchange's proposed Interpretations and Policies would make clear how to count complex orders, "parent/child" orders that are broken into multiple orders, and "cancel/replace" orders for Priority Customer and Professional Interest order counting purposes.

Proposed Interpretations and Policies .01, paragraph (a) would provide that except as noted below, each order of any order type, regardless of the options exchange on which the order is entered or to which the order is routed, shall be counted as one (1) order toward the 390-order threshold, except that Flexible Exchange Option (FLEX) orders shall not be counted. This is because FLEX orders are non-electronic orders, and the proposed rule change relates only to orders that are submitted electronically.

Proposed Interpretations and Policies .01, paragraph (b) would state that a complex order[19] comprised of eight (8) options legs or fewer will count as a single order toward the 390-order threshold. A complex order comprised of nine (9) options legs or more will count as multiple orders, with each options leg counting as its own separate order. Stock components of stock-option orders are explicitly excluded from the count because they do not constitute orders in listed options. The Exchange believes that complex orders with nine or more legs are more likely to be used by professional traders than traditional two, three and four leg complex orders strategies and combinations thereof with eight legs or fewer, which are generally not algorithmically generated and are frequently used by retail investors. Thus, the types of complex orders traditionally placed by retail investors would continue to count as a single order toward the 390-order threshold while the more complex strategy orders that are typically used by professional traders would count as multiple orders.

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[14] *See* Exchange Rule 100 (Professional Interest). *See also supra* notes 11 and 12.

[15] *See* supra notes 7 and 8.

[16] *See* MIAX Regulatory Circular 2014–69 (Priority Customer and Professional Interest Order Summary).

[17] *See* CBOE Regulatory Circular RG09–148 (Professional Orders); ISE Regulatory Information Circular 2014–007/Gemini Regulatory Information Circular 2014–011 (Priority Customer Orders and Professional Orders (FAQ)); MIAX Regulatory Circular 2014–69 (Priority Customer and Professional Interest Order Summary); NYSE Joint Regulatory Bulletin, NYSE Arca RBO–15–03, NYSE Amex RBO–15–06) (Professional Customer Orders); BOX Regulatory Circular RC–2015–21 (Professional Orders).

[18] Compare NYSE Joint Regulatory Bulletin, NYSE Arca RBO–15–03, NYSE Amex RBO–15–06 (Professional Customer Orders) with Interpretation and Policy .01 to Rule 1.1(ggg); Regulatory Circular RG09–148 (Professional Orders); ISE Regulatory Information Circular 2014–007/Gemini Regulatory Information Circular 2014–011 (Priority Customer Orders and Professional Orders (FAQ)); and ISE Regulatory Information Circular 2009–179 (Priority Customer Orders and Professional Orders (FAQ)).

[19] The Exchange notes that it does not currently accept complex orders, however as noted above, the proposed Priority Customer and Professional Interest order counting regime will count all orders regardless of the options exchange on which entered.

Proposed Interpretations and Policies .01, paragraph (c) would provide details relating to the counting of "parent/child" orders. Under the proposal, a "parent" order placed for the beneficial account(s) of a person or entity not a broker or dealer that is broken into multiple subordinate "child" orders on the same side (buy/sell) and series as the "parent" order, by a broker or dealer or an algorithm housed at a broker or dealer or licensed from a broker dealer but housed with the customer, shall count as one (1) order, even if the "child" orders are routed away. Proposed paragraph (c) would permit larger "parent" orders (which may be simple orders or complex orders consisting of up to eight legs), to be broken into multiple smaller orders on the same side (buy/sell) and in the same series (or complex orders consisting of up to eight legs) in order to attempt to achieve best execution for the overall order. Proposed paragraph (c) would essentially separate orders that are part of an overall strategy from those orders that are being "worked" by a broker in order to achieve best execution or in an attempt to time the market.

For example, if a customer were to enter an order to buy 1,000 XYZ $5 January calls at a limit price of $1, which the customer's broker then broke into four separate orders to buy 250 XYZ $5 January calls at a limit price of $1 in order to achieve a better execution, the four "child" orders would still only count as one order for Priority Customer and Professional Interest order counting purposes (whether or not the four separate orders were sent to the same or different exchanges for execution).[20] Similarly, in the case of a complex order, if a customer were to enter an order to buy 1,000 XYZ $5 January(sell)/March(buy) calendar spreads (with a 1:1 ratio on the legs), at a net debit limit price of $0.20, which the customer's broker then broke into four separate orders to buy 250 XYZ $5 January/March calendar spreads (each with a 1:1 ratio on the legs), each at a net debit limit price of $0.20, the four "child" orders would still only count as one order for Priority Customer and Professional Interest order counting purposes (whether or not the four separate orders were sent to the same or different exchanges for execution).

On the other hand, a "parent" order (including a strategy order)[21] that is broken into multiple subordinate "child" orders on both sides (buy/sell) of a series and/or multiple series shall count as multiple orders, with each "child" order counted as a new and separate order per side and series. Accordingly under this provision, strategy orders, which are most often used by sophisticated traders best characterized as industry professionals, would count as multiple orders for each "child" order entered as part of the overall strategy. For example, if a customer were to enter an order with her broker by which multiple "child" orders were then sent to the Exchange on both sides (buy/sell) of a series in a particular option class, each order entered would count as a separate order for Priority Customer and Professional Interest order counting purposes. Further, if a customer were to enter an order with her broker by which multiple "child" orders were then sent to the Exchange across multiple series in a particular option class, each order entered would count as a separate order for Priority Customer and Professional Interest order counting purposes. Likewise, if the customer instructed her broker to buy a variety of calls across various option classes as part of a basket trade, each order entered by the broker in order to obtain the positions making up the basket would count as a separate order for Priority Customer and Professional Interest order counting purposes.[22]

The Exchange believes that the distinctions between "parent" and "child" orders in proposed paragraph (c) are appropriate. The purpose of proposed paragraph (c) is to distinguish "child" orders of "parent" orders generated by algorithms that are typically used by sophisticated traders to continuously update their orders in concert with market updates in order to keep their overall trading strategies in balance. The Exchange believes that these types of "parent/child" orders typically used by sophisticated traders should count toward the 390-order threshold as multiple orders.

Proposed Interpretations and Policies .01, paragraph (d) would discuss the counting of orders that are cancelled and replaced toward the 390-order threshold. Specifically, proposed paragraph (d)(1) would provide that an order that cancels and replaces a prior order shall count as a second order, or multiple new orders in the case of a complex order comprised of nine (9) options legs or more, including "single-strike algorithms." A series of cancel and replace orders in an individual strike which track the Exchange's best bid or offer ("MBBO") or the national best bid or offer ("NBBO") shall count as separate new orders. Paragraph (d)(1) makes clear that a cancel message in and of itself, is not an order. For example, if a trader were to enter a non-marketable limit order to buy an option contract at a certain net debit price, cancel the order in response to market movements, and then reenter the same order once it became marketable, those orders would count as two separate orders for Priority Customer and Professional Interest order counting purposes even though the terms of both orders were the same.

Proposed paragraph (d)(2) would provide that except as noted in proposed paragraph (d)(3), an order that cancels and replaces a subordinate "child" order on the same side and series as the "parent" order shall not count as a new order. For example, if a customer were to enter an order with her broker to buy 10,000 XYZ $5 January calls at a limit price of $1, which the customer's broker then entered, but could not fill and then cancelled to avoid having to rest the order in the book as part of a strategy to obtain a better execution for the customer and then resubmitted the remainder of the order, which would be considered a "child" of the "parent" order, once it became marketable, such orders would only count as one order for Priority Customer and Professional Interest order counting purposes.

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[20] Notably, however, if the customer herself were to enter the same four identical orders to buy 250 XYZ $5 January calls at a limit price of $1 prior to sending the orders, those orders would count as four separate orders for Priority Customer and Professional Interest order counting purposes because the orders would not have been broken into multiple "child" orders on the same side(buy/sell) and series as the "parent" order by a broker or dealer, or by an algorithm housed at a broker or dealer or licensed from a broker or dealer but housed with the customer.

[21] For purposes of the proposed Interpretation and Policy, the term "strategy order" is intended to mean an execution strategy, trading instruction, or algorithm whereby multiple "child" orders on both sides of a series and/or multiple series are generated prior to being sent to any or multiple U.S. options exchange(s).

[22] Notably, with respect to the types of "parent" orders (including strategy orders) described in paragraph (c) to the definition of Priority Customer under proposed Interpretation and Policy .01 to Rule 100, such orders would be received only as multiple "child" orders on the U.S. options exchange receiving such orders. The "parent" order would be broken apart before being sent by the participant to the exchange(s) as multiple "child" orders.

Proposed paragraph (d)(3) would state that an order that cancels and replaces a subordinate "child" order and results in multiple new sides and/or in multiple series will count as a new order per side and series. Proposed paragraph (d)(3) is aimed at identifying "child" orders of "parent" orders generated by algorithms that are typically used by sophisticated traders to continuously update their orders in concert with market updates in order to keep their overall trading strategies in balance. The Exchange believes that proposed paragraph (d)(3) is consistent with these goals. For example, if an investor were to seek to make a trade (or series of trades) to take a long position at a certain percentage limit on a basket of options, the investor may need to cancel and replace several of the "child" orders entered to achieve the overall execution strategy several times to account for updates in the prices of the underlying securities. In such a case, each "child" order placed to keep the overall execution strategy in place would count as a new and separate order even if the particular "child" order were being used to replace a slightly different "child" order that was previously being used to keep the same overall execution strategy in place. The Exchange believes that the distinctions between cancel/replace orders in proposed paragraphs (d)(2) and (d)(3) are appropriate as the orders described in proposed paragraph (d)(3) are typically generated by algorithms used by sophisticated traders to keep strategy orders continuously in line with updates in the markets. As such, the Exchange believes that in such cases, cancel/replace orders should count as multiple orders.

Finally, proposed paragraph (d)(3) would also codify the Exchange's "pegged" order interpretation in the text of the Rules. Proposed paragraph (d)(3) would provide that an order that cancels and replaces a subordinate "child" order "pegged" to the MBBO or NBBO will count as a new order each time a cancel/replace order is used to follow the MBBO or NBBO. This interpretation is similar to the Exchange's current interpretation of its Priority Customer and Professional Interest rules.[23] The Exchange believes that paragraph (d)(3) is appropriate to make clear that pegged strategy orders that are typically used by sophisticated traders should be counted as multiple orders even though such orders may cancel/replace orders on the same side (buy/sell) of the market in a single series in order to achieve an overall order strategy.

Under current definitions of Priority Customer and Professional Interest under Rule 100, in order to properly represent orders entered on the Exchange, MIAX Members are required to mark orders as "Priority Customer" or "Professional Interest".[24] This requirement will remain the same. To comply with this requirement, Members are required to review their customer activity on at least a quarterly basis to determine whether orders that are not for the account of a broker-dealer should be represented as Priority Customer or Professional Interest.[25] Orders for any account that had an average of more than 390 orders per day during any month of a given quarter must be represented as Professional Interest for the entire next calendar quarter. Members are required to conduct a quarterly review and make any appropriate changes to the way in which they are representing orders within five days after the end of each calendar quarter. While Members only will be required to review their customer accounts on a quarterly basis, if during a quarter the Exchange identifies a customer for which orders are being represented as Priority Customer but that has averaged more than 390 orders per day during a month, the Exchange will notify the Member and the Member will be required to change the manner in which it is representing the customer's orders within five days.

The Exchange's rules only require that Members conduct a look-back to determine whether their customers are averaging more than 390 orders per day at the end of each calendar quarter.[26] The Exchange therefore proposes that the proposed rule amendment become operative on July 1, 2016 in order to ensure that all orders during the quarterly review period commencing July 1, 2016 will be counted in the same manner and that the proposed order counting rules will not be applied retroactively. The Exchange will issue a Regulatory Circular 30 days prior to the operative date.

Additionally, the Exchange is making a technical change to correct a typographical error in the definition of Priority Customer under Rule 100 such that "accounts(s)" shall be corrected to read as "account(s)".

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act[27] in general, and furthers the objectives of Section 6(b)(5) of the Act[28] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[29] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed amendment to the definition of Priority Customer under Rule 100 will promote consistent application of the rule by further defining the manner in which the Exchange will compute the average daily number of orders submitted by a MIAX participant during a calendar month for its beneficial account(s) for purposes of determining the appropriate Priority Customer or Professional Interest designation. Furthermore, the Exchange believes that specifying the manner in which the 390-order daily threshold will be calculated within its Rules will provide Members with certainty and provide them with insight as they conduct their quarterly reviews for purposes of designating orders.

The Exchange additionally believes that the proposed rule change provides a more conservative order counting regime that would identify more traders as industry professionals, which the Exchange's definition of Priority Customer was designed to exclude, and thus create a better competitive balance for all participants on the Exchange, consistent with the Act. As the options markets have evolved to become more electronic and more competitive, the Exchange believes that the distinction between registered broker-dealers on the one hand and professional traders who are nevertheless currently treated as Priority Customers on the other hand has become increasingly blurred. More and more, the Exchange's category of Priority Customer today includes sophisticated algorithmic traders including former market makers and hedge funds that trade with a frequency resembling that of broker-dealers. The Exchange believes that it is reasonable under the Act to treat those customers who meet the high level of trading activity established in the proposal differently than customers who do not meet that threshold and are more typical retail investors to ensure that professional traders do not take advantage of priority and fee benefits intended for Priority Customers.

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[23] *See supra* note 16.

[24] *See id.*

[25] *See id.*

[26] *See supra* note 16.

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

[29] *See id.*

The Exchange notes that it is not unfair to differentiate between different types of investors in order to achieve certain marketplace balances. The Rules currently differentiate between Priority Customers, broker-dealers, Market-Makers, and the like, and these differentiations have been recognized to be consistent with the Act.[30] The Exchange believes that the current rules of MIAX and other exchanges that accord priority to non-broker-dealer customers over broker-dealers are appropriate and consistent with the Act. The Exchange further believes that it is appropriate and consistent with the Act to accord priority to only those non-professional customers who on average do not place more than one order per minute (390 per day) under the counting regime that the Exchange proposes. The Exchange believes that such differentiations drive competition in the marketplace and are within the business judgment of the Exchange. Accordingly, the Exchange also believes that its proposal is consistent with the requirement of Section 6(b)(8) of the Act[31] that the rules of an exchange not impose an unnecessary or inappropriate burden upon competition in that it treats persons who should be deemed industry professionals, but who may not be so deemed under current Exchange Rules, in a manner so that they do not receive special priority benefits.

Furthermore, the Exchange believes that the proposed rule change will protect investors and the public interest by helping to assure that true Priority Customers continue to receive the appropriate marketplace benefits in the MIAX marketplace as intended, while furthering competition among marketplace professionals by treating them in the same manner as other similarly situated professional market participants. The Exchange believes that it is consistent with Section 6(b)(5) of the Act[32] not to afford certain market participants that have access to information and technology similar to that of brokers and dealers of securities with marketplace advantages intended for Priority Customers. Finally, the Exchange believes that the proposed rule change sets forth a more detailed and clear regulatory regime with respect to calculating average daily order entry for Priority Customer and Professional Interest order counting purposes. The Exchange believes that this additional clarity and detail will eliminate confusion among market participants, which is in the interests of all investors and the general public.

The Exchange believes that a new set of standards and a more detailed counting regime than the Exchange's current Priority Customer and Professional Interest rules provide would allow the Exchange to better compete for order flow and help ensure deeper levels of liquidity on the Exchange. The Exchange also believes that the proposed rule change would help to remove impediments to and help perfect the mechanism of a free and open market and a national market system by increasing competition in the marketplace. Accordingly, the Exchange proposes to amend the definition of Priority Customer under Rule 100 and adopt a new Interpretations and Policies thereto.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that this rule change is substantially similar to recent CBOE and PHLX filings approved by the Commission.[33] As discussed above, the Exchange does not believe that the current rules of MIAX and other exchanges that accord priority to non-broker-dealer customers over broker-dealers are unfairly discriminatory. Nor does the Exchange believe that it is unfairly discriminatory to accord priority to only those non-professional customers who on average do not place more than one order per minute (390 per day) under the counting regime that the Exchange proposes.

The Exchange believes that its proposal does not impose an undue burden on competition. Rather, the Exchange believes that the proposed rule change would help to remove burdens on competition and promote a more competitive marketplace by affording certain marketplace advantages only to those for whom they are intended. The Exchange notes that one of the purposes of the rules regarding professional traders is to help ensure fairness in the marketplace and promote competition among all market participants. The Exchange believes that the proposed rule change should help establish more competition among market participants and promote the purposes underlying Exchange's Priority Customer and Professional Interest rules. The Exchange does not believe that the Act requires it to equally provide the same incentives and discounts to all market participants given as discussed above, the distinctions among such market participants as professional traders or retail investors.

Rather than burden competition, the Exchange believes that the proposed rule change promotes competition by ensuring that retail investors continue to receive the appropriate marketplace benefits in the MIAX marketplace as intended in the MIAX Rules, while furthering competition among marketplace professionals by treating them in the same manner under the Rules as other similarly situated market participants. The proposal will accomplish this by ensuring that market participants with similar access to information and technology (*i.e.* professional traders and broker-dealers) receive similar treatment under the Rules, while retail investors receive the benefits of order priority and fee waivers that are intended to apply to Priority Customers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[34] and Rule 19b–4(f)(6) thereunder.[35] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

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[30] *See, e.g.,* Securities Exchange Act Release No. 59287 (January 23, 2009), 74 FR 5694, 5694 (January 30, 2009) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of the Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, Relating to Professional Account Holders) (SR–ISE–2006–026).

[31] 15 U.S.C. 78(b)(8).

[32] 15 U.S.C. 78(b)(5).

[33] *See supra* notes 5 and 6.

[34] 15 U.S.C. 78s(b)(3)(A)(iii).

[35] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act[36] to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–MIAX–2016–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–MIAX–2016–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–MIAX–2016–11, and should be submitted on or before June 15, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–12235 Filed 5–24–16; 8:45 am]

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[36] 15 U.S.C. 78s(b)(2)(B).

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77854; File No. SR–NASDAQ–2016–061]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change Relating To Listing and Trading of Shares of the First Trust Equity Market Neutral ETF of the First Trust Exchange-Traded Fund VIII

May 19, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 4, 2016, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in in Items I and II below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to list and trade the shares of the First Trust Equity Market Neutral ETF (the "Fund") of First Trust Exchange-Traded Fund VIII (the "Trust") under Nasdaq Rule 5735 ("Managed Fund Shares").[3] The shares of the Fund are collectively referred to herein as the "Shares."

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares[4] on the Exchange. The Fund will be an actively-managed exchange-traded fund ("ETF"). The Shares will be offered by the Trust, which was established as a Massachusetts business trust on February 22, 2016.[5] The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N–1A ("Registration Statement") with the Commission.[6] The Fund will be a series of the Trust.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR–NASDAQ–2008–039). There are already multiple actively-managed funds listed on the Exchange; *see, e.g.*, Securities Exchange Act Release Nos. 72506 (July 1, 2014), 79 FR 38631 (July 8, 2014) (SR–NASDAQ–2014–050) (order approving listing and trading of First Trust Strategic Income ETF); 69464 (April 26, 2013), 78 FR 25774 (May 2, 2013) (SR–NASDAQ–2013–036) (order approving listing and trading of First Trust Senior Loan Fund); and 66489 (February 29, 2012), 77 FR 13379 (March 6, 2012) (SR–NASDAQ–2012–004) (order approving listing and trading of WisdomTree Emerging Markets Corporate Bond Fund). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (the "1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Index Fund Shares, listed and traded on the Exchange under Nasdaq Rule 5705, seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index, or combination thereof.

First Trust Advisors L.P. will be the investment adviser ("Adviser") to the Fund. Perella Weinberg Partners Capital Management LP will serve as investment sub-adviser ("Sub-Adviser") to the Fund and provide day-to-day portfolio management. First Trust Portfolios L.P. (the "Distributor") will be the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon Corporation ("BNY") will act as the administrator, accounting agent, custodian and transfer agent to the Fund.

Paragraph (g) of Rule 5735 provides that if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[7] In addition, paragraph (g) further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio. Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i); however, paragraph (g) in connection with the establishment of a "fire wall" between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. Neither the Adviser nor the Sub-Adviser is a broker-dealer, although the Adviser is affiliated with the Distributor, a broker-dealer registered with the Commission, and the Sub-Adviser is affiliated with Perella Weinberg Partners LP, a broker-dealer registered with the Commission, and Perella Weinberg Partners UK LLP, a broker-dealer regulated by the Financial Conduct Authority, and each has implemented and will maintain a fire wall with respect to its respective broker-dealer affiliate(s) regarding access to information concerning the composition and/or changes to the portfolio. In addition, personnel who make decisions on the Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio. In the event (a) the Adviser or the Sub-Adviser registers as a broker-dealer, or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with another broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The Fund intends to qualify each year as a regulated investment company ("RIC") under Subchapter M of the Internal Revenue Code of 1986, as amended.

First Trust Equity Market Neutral ETF

Principal Investments

The investment objective of the Fund will be to seek long-term capital appreciation independent of market direction. Under normal market conditions,[8] the Fund will seek to achieve its investment objective by investing at least 80% of its net assets in "Equity Securities" (as defined below), which may be represented by certain derivative instruments, as discussed below,[9] as well as ETFs[10] that invest primarily in Equity Securities (the "80% Investments"); the 80% Investments will take into account such derivative instruments and ETFs. The Equity Securities in which the Fund will invest will be listed on a U.S. or a non-U.S. exchange and will consist of the following: (i) Common stocks; (ii) preferred securities; (iii) warrants to purchase common stocks or preferred securities; (iv) securities convertible into common stocks or preferred securities; (v) securities issued by real estate investment trusts ("REITs");[11] (vi) securities issued by master limited partnerships ("MLPs"); and (vii) American Depositary Receipts ("ADRs"), European Depositary Receipts ("EDRs"), and Global Depositary Receipts ("GDRs" and, together with ADRs and EDRs, "Depositary Receipts").[12]

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[5] The Commission has issued an order, upon which the Trust may rely, granting certain exemptive relief under the 1940 Act. *See* Investment Company Act Release No. 28468 (October 27, 2008) (File No. 812–13477) (the "Exemptive Relief").

[6] *See* Registration Statement on Form N–1A for the Trust, dated March 14, 2016 (File Nos. 333–210186 and 811–23147). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the "Advisers Act"). As a result, the Adviser, the Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[8] The term "under normal market conditions" as used herein includes, but is not limited to, the absence of adverse market, economic, political or other conditions, including extreme volatility or trading halts in the securities markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or *force majeure* type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance. On a temporary basis, including for defensive purposes, during the initial invest-up period and during periods of high cash inflows or outflows, the Fund may depart from its principal investment strategies; for example, it may hold a higher than normal proportion of its assets in cash. During such periods, the Fund may not be able to achieve its investment objective. The Fund may adopt a defensive strategy when the Adviser and/or the Sub-Adviser believes securities in which the Fund normally invests have elevated risks due to political or economic factors and in other extraordinary circumstances.

[9] Such derivatives are defined as "Principal Derivatives." *See* "The Fund's Use of Derivatives," *infra*.

[10] An ETF is an investment company registered under the 1940 Act that holds a portfolio of securities. Many ETFs are designed to track the performance of a securities index, including industry, sector, country and region indexes. ETFs included in the Fund will be listed and traded in the U.S. on registered exchanges. The Fund may invest in the securities of ETFs in excess of the limits imposed under the 1940 Act pursuant to exemptive orders obtained by other ETFs and their sponsors from the Commission. In addition, the Fund may invest in the securities of certain other investment companies in excess of the limits imposed under the 1940 Act pursuant to an exemptive order that the Trust has obtained from the Commission. *See* Investment Company Act Release No. 30377 (February 5, 2013) (File No. 812–13895). The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depository Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as described in Nasdaq Rule 5735). While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged or inverse leveraged (*e.g.*, 2X or −3X) ETFs.

[11] A REIT is a company that owns and typically operates income-producing real estate or related assets.

The Sub-Adviser will use a long/short strategy in seeking to construct a portfolio that it believes, based on its proprietary analysis, provides the opportunity for capital preservation and appreciation across a wide variety of market conditions.[13] In selecting Equity Securities for the Fund's portfolio based on the long/short strategy, the Sub-Adviser will analyze certain factors which may drive the performance of an Equity Security (*e.g.*, a company's earnings estimates and cash flows, among other valuation metrics; "macro" or thematic factors, such as interest rates, commodity prices and Fed policy; specific factors affecting an industry, sector or geographic area; and behavioral/sentimental factors, such as general market attitudes, news headlines, stock market technical metrics and investor sentiment). Additionally, the Sub-Adviser will apply a risk management process that focuses on, among other things, liquidity and volatility of a company's Equity Securities. Also, a portion of the Fund's portfolio will typically be invested in Equity Securities selected by the Sub-Adviser through application of an event-driven strategy that seeks to identify and capitalize on certain corporate actions which may affect the value of Equity Securities, such as mergers and acquisitions, divestitures, tender offers, and other corporate events.[14]

The Fund's Use of Derivatives

The Fund may engage in transactions in derivative instruments as described in this paragraph. As noted above under "Principal Investments," the Fund's investments in Equity Securities may be represented by derivatives. Investments in Equity Securities that are represented by derivatives (referred to collectively as "Principal Derivatives") will be treated as investments in Equity Securities for purposes of the 80% Investments. Principal Derivatives will consist of the following: (i) Total return swap agreements;[15] (ii) exchange-traded options on stock indices; (iii) exchange-traded options on equity securities; and (iv) exchange-traded stock index futures contracts. In addition to purchasing exchange-traded options on stock indices and exchange-traded options on equity securities, the Fund may also sell such exchange-traded options, either outright or as part of an options strategy (such as a collar[16] or an option spread[17]). Additionally, the Fund may invest, to the extent described below in "Other Investments," in the following derivatives (referred to collectively as "Non-Principal Derivatives"): (i) Non-U.S. currency swap agreements; and (ii) forward foreign currency exchange contracts. The Fund may also enter into currency transactions on a spot (*i.e.*, cash) basis. The Fund will invest (in the aggregate) no more than 30% of the value of its net assets (calculated at the time of investment) in Principal Derivatives and Non-Principal Derivatives (the "30% Limitation").

The Fund will only enter into transactions in over-the-counter ("OTC") derivatives (including non-U.S. currency swap agreements, total return swap agreements, and forward foreign currency exchange contracts) with counterparties that the Adviser and/or the Sub-Adviser reasonably believes are capable of performing under the applicable contract or agreement.[18]

The Fund's investments in derivative instruments will be made in accordance with the 1940 Act, will be consistent with the Fund's investment objective and policies, and will not be used to seek to achieve a multiple or inverse multiple of an index. To limit the potential risk associated with the Fund's derivatives transactions, the Fund will segregate or "earmark" assets determined to be liquid by the Adviser and/or the Sub-Adviser in accordance with procedures established by the Board of Trustees of the Trust ("Trust Board") and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund's use of derivatives, may give rise to leverage, causing the Fund to be more volatile than if it had not been leveraged.[19] Because the markets for certain securities, or the securities themselves, may be unavailable or cost prohibitive as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure.

The Adviser believes there will be minimal, if any, impact to the arbitrage mechanism as a result of the use of derivatives. Market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Adviser believes that the price at which Shares trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem Creation Units (as defined below) at their net asset value ("NAV"), which should ensure that Shares will not trade at a material discount or premium in relation to their NAV.

The Adviser does not believe there will be any significant impacts to the settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives. Because derivatives generally are not eligible for in-kind transfer, they will typically be substituted with a "cash in lieu" amount when the Fund processes purchases or redemptions of Creation Units (as defined below) in-kind.

Other Investments

With respect to up to 20% of its net assets, the Fund may invest in and/or include in its portfolio (as applicable, as indicated below) the following securities and instruments (in the aggregate).

The Fund may invest in non-exchange-traded equity securities

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[12] The Fund will not invest in any unsponsored Depositary Receipts.

[13] When the Fund takes a long position in an Equity Security, it will purchase the security outright. In contrast, when the Fund takes a short position, it will sell a security that the Fund does not own at the current market price and deliver to the buyer a security that the Fund has borrowed.

[14] In connection with its event-driven strategy, the Fund may also invest a portion of its assets in Non-Exchange-Traded Equity Securities (as defined *infra*). *See* note 20 and accompanying text under "Other Investments."

[15] Total return swap agreements are generally contracts to obtain the total return of a referenced asset or index in exchange for paying a financing cost. The Fund will only invest in total return swap agreements that have (i) referenced assets that are exchange-traded securities or (ii) referenced indexes that are comprised of exchange-traded securities.

[16] A collar is generally created by purchasing a put option while simultaneously writing (selling) a call option.

[17] An option spread is generally an investment strategy in which one has a long position on an option contract while having a short position on another option on the same underlying asset.

[18] The Fund will seek, where possible, to use counterparties, as applicable, whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser and/or the Sub-Adviser will consider the creditworthiness of counterparties on an ongoing basis. The Adviser's and/or Sub-Adviser's analysis of potential counterparties may incorporate various methods of analysis and may include such factors as information provided by credit agencies, as well as the Adviser's and/or Sub-Adviser's past experience with the counterparty, its known disciplinary history and its share of market participation.

[19] To mitigate leveraging risk, the Adviser and/or the Sub-Adviser will segregate or "earmark" liquid assets or otherwise cover the transactions that may give rise to such risk.

("Non-Exchange-Traded Equity Securities") acquired in conjunction with its event-driven strategy (as described above).[20] The Fund may invest in exchange-traded notes ("ETNs").

The Fund may invest in Non-Principal Derivatives.

The Fund may invest in short-term debt securities and other short-term debt instruments (described below), as well as cash equivalents, or it may hold cash. The percentage of the Fund invested in such holdings or held in cash will vary and will depend on several factors, including market conditions. The Fund may invest in the following short-term debt instruments: [21] (1) Fixed rate and floating rate U.S. government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. government agencies or instrumentalities; (2) certificates of deposit issued against funds deposited in a bank or savings and loan association; (3) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (4) repurchase agreements,[22] which involve purchases of debt securities; (5) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; and (6) commercial paper, which is short-term unsecured promissory notes.[23]

The Fund may invest in money market mutual funds, U.S. exchange-traded closed-end funds and other ETFs [24] that, in each case, will be investment companies registered under the 1940 Act. In addition to ETFs and closed-end funds, the Fund may invest in certain other exchange-traded pooled investment vehicles ("ETPs").[25]

The Fund's portfolio may include exchange-traded and OTC contingent value rights ("CVRs") received by the Fund as consideration in connection with a corporate action related to a security held by the Fund.[26]

Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser and/or the Sub-Adviser.[27] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[28]

The Fund may not invest 25% or more of the value of its total assets in securities of issuers in any one industry. This restriction does not apply to (a) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities or (b) securities of other investment companies.[29]

Creation and Redemption of Shares

The Fund will issue and redeem Shares on a continuous basis at NAV [30] only in large blocks of Shares ("Creation Units") in transactions with authorized participants, generally including broker-dealers and large institutional investors ("Authorized Participants"). Creation Units generally will consist of 50,000 Shares, although this may change from time to time. Creation Units, however, are not expected to consist of less than 50,000 Shares. As described in the Registration Statement and consistent with the Exemptive Relief, the Fund will issue and redeem Creation Units in exchange for an in-kind portfolio of instruments and/or cash in lieu of such instruments (the "Creation Basket").[31] In addition, if there is a difference between the NAV attributable to a Creation Unit and the market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will pay to the other an amount in cash equal to the difference (referred to as the "Cash Component").

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[20] For example, in conjunction with its event-driven strategy, the Fund may acquire a Non-Exchange-Traded Equity Security as a result of a merger or other corporate reorganization. Certain Non-Exchange-Traded Equity Securities may be Rule 144A securities; the Fund will not invest in Rule 144A securities other than Non-Exchange-Traded Equity Securities. Additionally, Non-Exchange-Traded Equity Securities will not be represented by derivative instruments.

[21] Short-term debt instruments are issued by issuers having a long-term debt rating of at least A by Standard & Poor's Ratings Services, a Division of The McGraw-Hill Companies, Inc. ("S&P Ratings"), Moody's Investors Service, Inc. ("Moody's") or Fitch Ratings ("Fitch") and have a maturity of one year or less.

[22] The Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by the Adviser and/or the Sub-Adviser to present minimal credit risks in accordance with criteria approved by the Trust Board. The Adviser and/or the Sub-Adviser will review and monitor the creditworthiness of such institutions. The Adviser and/or the Sub-Adviser will monitor the value of the collateral at the time the transaction is entered into and at all times during the term of the repurchase agreement.

[23] The Fund may only invest in commercial paper rated A–1 or higher by S&P Ratings, Prime–1 or higher by Moody's or F1 or higher by Fitch.

[24] Such ETFs will not invest primarily in Equity Securities (and, therefore, will not be taken into account for purposes of the 80% Investments), but may otherwise invest in assets of any type.

[25] The Fund may invest in the following ETPs: Trust certificates, commodity-based trust shares, currency trust shares, commodity index trust shares, commodity futures trust shares, partnership units, trust units, and managed trust securities (as described in Nasdaq Rule 5711); paired class shares (as described in Nasdaq Rule 5713); trust issued receipts (as described in Nasdaq Rule 5720); and exchange-traded managed fund shares (as described in Nasdaq Rule 5745).

[26] A CVR is a type of right given to shareholders of an acquired company (or a company facing major restructuring) that entitles them to receive an additional benefit upon the occurrence of a specified event, and is similar to an option because it often has an expiration date that relates to the time the contingent event must occur. For the avoidance of doubt, CVRs will not be taken into account for purposes of the 30% Limitation.

[27] In reaching liquidity decisions, the Adviser and/or the Sub-Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.*, the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer). *See also* note 28 and accompanying text.

[28] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding "Restricted Securities"); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[29] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.*, Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[30] The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange ("NYSE"), generally 4:00 p.m., Eastern Time (the "NAV Calculation Time"). NAV per Share will be calculated by dividing the Fund's net assets by the number of Fund Shares outstanding. For more information regarding the valuation of Fund investments in calculating the Fund's NAV, *see* the Registration Statement.

[31] Subject to, and in accordance with, the provisions of the Exemptive Relief, it is expected that the Fund will typically issue and redeem Creation Units for a combination of in-kind instruments and cash; however, at times, it may issue and redeem Creation Units on a solely cash or solely in-kind basis.

Creations and redemptions must be made by or through an Authorized Participant that has executed an agreement that has been agreed to by the Distributor and BNY with respect to creations and redemptions of Creation Units. All standard orders to create Creation Units must be received by the transfer agent no later than the closing time of the regular trading session on the NYSE (ordinarily 4:00 p.m., Eastern Time) (the "Closing Time") in each case on the date such order is placed in order for the creation of Creation Units to be effected based on the NAV of Shares as next determined on such date after receipt of the order in proper form. Shares may be redeemed only in Creation Units at their NAV next determined after receipt not later than the Closing Time of a redemption request in proper form by the Fund through the transfer agent and only on a business day.

The Fund's custodian, through the National Securities Clearing Corporation, will make available on each business day, prior to the opening of business of the Exchange, the list of the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Component (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following business day prior to commencement of trading in the Shares.

Net Asset Value

The Fund's NAV will be determined as of the close of regular trading on the NYSE (ordinarily 4:00 p.m., Eastern Time) on each day the NYSE is open for trading. If the NYSE closes early on a valuation day, the NAV will be determined as of that time. NAV per Share will be calculated for the Fund by taking the value of the Fund's total assets, including interest or dividends accrued but not yet collected, less all liabilities, including accrued expenses and dividends declared but unpaid, and dividing such amount by the total number of Shares outstanding. The result, rounded to the nearest cent, will be the NAV per Share. All valuations will be subject to review by the Trust Board or its delegate.

The Fund's investments will be valued daily. As described more specifically below, investments traded on an exchange (*i.e.*, a regulated market), will generally be valued at market value prices that represent last sale or official closing prices. In addition, as described more specifically below, non-exchange traded investments will generally be valued using prices obtained from third-party pricing services (each, a "Pricing Service").[32] If, however, valuations for any of the Fund's investments cannot be readily obtained as provided in the preceding manner, or the Pricing Committee of the Adviser (the "Pricing Committee")[33] questions the accuracy or reliability of valuations that are so obtained, such investments will be valued at fair value, as determined by the Pricing Committee, in accordance with valuation procedures (which may be revised from time to time) adopted by the Trust Board (the "Valuation Procedures"), and in accordance with provisions of the 1940 Act. The Pricing Committee's fair value determinations may require subjective judgments about the value of an investment. The fair valuations attempt to estimate the value at which an investment could be sold at the time of pricing, although actual sales could result in price differences, which could be material. Valuing the Fund's investments using fair value pricing can result in using prices for those investments (particularly investments that trade in foreign markets) that may differ from current market valuations.

Certain securities in which the Fund may invest will not be listed on any securities exchange or board of trade. Such securities will typically be bought and sold by institutional investors in individually negotiated private transactions that function in many respects like an OTC secondary market, although typically no formal market makers will exist. Certain securities, particularly debt securities, will have few or no trades, or trade infrequently, and information regarding a specific security may not be widely available or may be incomplete. Accordingly, determinations of the value of debt securities may be based on infrequent and dated information. Because there is less reliable, objective data available, elements of judgment may play a greater role in valuation of debt securities than for other types of securities.

The information summarized below is based on the Valuation Procedures as currently in effect; however, as noted above, the Valuation Procedures are amended from time to time and, therefore, such information is subject to change.

The following investments will typically be valued using information provided by a Pricing Service: (a) Non-U.S. currency swap agreements and total return swap agreements; (b) Non-Exchange-Traded Equity Securities (including without limitation Rule 144A securities); (c) except as provided below, short-term U.S. government securities, commercial paper, and bankers' acceptances, all as set forth under "Other Investments" (collectively, "Short-Term Debt Instruments"); and (d) currency spot transactions. Debt instruments may be valued at evaluated mean prices, as provided by Pricing Services. Pricing Services typically value non-exchange-traded instruments utilizing a range of market-based inputs and assumptions, including readily available market quotations obtained from broker-dealers making markets in such instruments, cash flows, and transactions for comparable instruments. In pricing certain instruments, the Pricing Services may consider information about an instrument's issuer or market activity provided by the Adviser and/or the Sub-Adviser.

Short-Term Debt Instruments having a remaining maturity of 60 days or less when purchased will typically be valued at cost adjusted for amortization of premiums and accretion of discounts, provided the Pricing Committee has determined that the use of amortized cost is an appropriate reflection of value given market and issuer-specific conditions existing at the time of the determination.

Repurchase agreements will typically be valued as follows:

Overnight repurchase agreements will be valued at amortized cost when it represents the best estimate of value. Term repurchase agreements (*i.e.*, those whose maturity exceeds seven days) will be valued at the average of the bid quotations obtained daily from at least two recognized dealers.

Certificates of deposit and bank time deposits will typically be valued at cost.

OTC CVRs will typically be fair valued at the mean of the bid and asked price, if available, and otherwise at their closing bid price.

Common stocks and other equity securities (including Equity Securities; closed-end funds; ETFs; and ETPs), as well as ETNs, that are listed on any exchange other than the Exchange and the London Stock Exchange Alternative Investment Market ("AIM") will typically be valued at the last sale price on the exchange on which they are principally traded on the business day as of which such value is being determined. Such securities listed on the Exchange or the AIM will typically be valued at the official closing price on the business day as of which such value is being determined. If there has been no sale on such day, or no official closing price in the case of securities traded on the Exchange or the AIM, such securities will typically be valued using fair value pricing. Such securities traded on more than one securities exchange will be valued at the last sale price or official closing price, as applicable, on the business day as of which such value is being determined at the close of the exchange representing the principal market for such securities.

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[32] The Adviser may use various Pricing Services or discontinue the use of any Pricing Services, as approved by the Trust Board from time to time.

[33] The Pricing Committee will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio.

Money market mutual funds will typically be valued at their net asset values as reported by such funds to Pricing Services.

Exchange-traded derivatives (including options on stock indices; options on equity securities; and stock index futures contracts) and exchange-traded CVRs will typically be valued at the closing price in the market where such instruments are principally traded. If no closing price is available, such instruments will be fair valued at the mean of their most recent bid and asked price, if available, and otherwise at their closing bid price.

Forward foreign currency exchange contracts will typically be valued at the current day's interpolated foreign exchange rate, as calculated using the current day's spot rate, and the thirty, sixty, ninety and one-hundred-eighty day forward rates provided by a Pricing Service or by certain independent dealers in such contracts.

Because foreign exchanges may be open on different days than the days during which an investor may purchase or sell Shares, the value of the Fund's assets may change on days when investors are not able to purchase or sell Shares. Assets denominated in foreign currencies will be translated into U.S. dollars at the exchange rate of such currencies against the U.S. dollar as provided by a Pricing Service. The value of assets denominated in foreign currencies will be converted into U.S. dollars at the exchange rates in effect at the time of valuation.

Availability of Information

The Fund's Web site (*www.ftportfolios.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web site will include the Shares' ticker, CUSIP, and exchange information along with additional quantitative information updated on a daily basis, including, for the Fund: (1) Daily trading volume, the prior business day's reported NAV and closing price, mid-point of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),[34] and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Regular Market Session[35] on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (the "Disclosed Portfolio" as defined in Nasdaq Rule 5735(c)(2)) held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[36]

The Fund's disclosure of derivative positions in the Disclosed Portfolio will include sufficient information for market participants to use to value these positions intraday. On a daily basis, the Fund will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in Rule 5735(c)(3) as the "Intraday Indicative Value," that reflects an estimated intraday value of the Fund's Disclosed Portfolio, will be disseminated. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service,[37] will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session. The Intraday Indicative Value will be based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close. Premiums and discounts between the Intraday Indicative Value and the market price may occur. This should not be viewed as a "real time" update of the NAV per Share of the Fund, which is calculated only once a day.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

Investors will also be able to obtain the Fund's Statement of Additional Information ("SAI"), the Fund's annual and semi-annual reports (together, "Shareholder Reports"), and its Form N–CSR and Form N–SAR, filed twice a year. The Fund's SAI and Shareholder Reports will be available free upon request from the Fund, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association ("CTA") plans for the

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[34] The Bid/Ask Price of the Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[35] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m., Eastern Time; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m., Eastern Time; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m., Eastern Time).

[36] Under accounting procedures to be followed by the Fund, trades made on the prior business day ("T") will be booked and reflected in NAV on the current business day ("T+1"). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[37] Currently, the NASDAQ OMX Global Index Data Service ("GIDS") is the Nasdaq OMX global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs. GIDS provides investment professionals with the daily information needed to track or trade Nasdaq indexes, listed ETFs, or third-party partner indexes and ETFs.

Shares. Quotation and last sale information for the following equity securities (to the extent traded on a U.S. exchange)[38] will be available from the exchanges on which they are traded as well as in accordance with any applicable CTA plans: Equity Securities; ETFs; closed-end funds; and ETPs. Quotation and last sale information for U.S. exchange-traded options (including U.S. exchange-traded options on equity securities and U.S. exchange-traded options on stock indices)[39] will be available via the Options Price Reporting Authority. Quotation and last sale information for U.S. exchange-traded stock index futures contracts, ETNs and CVRs will be available from the exchanges on which they are traded.[40]

Pricing information for Non-Exchange-Traded Equity Securities (including without limitation Rule 144A securities), Short-Term Debt Instruments, repurchase agreements, OTC CVRs, non-U.S. currency swap agreements, total return swap agreements, forward foreign currency exchange contracts, bank time deposits, certificates of deposit and currency spot transactions will be available from major broker-dealer firms and/or major market data vendors and/or Pricing Services. Pricing information for exchange-traded equity securities (including Equity Securities; closed-end funds; ETFs; and ETPs), ETNs, exchange-traded CVRs and exchange-traded derivatives (including options on stock indices; options on equity securities; and stock index futures contracts) will be available from the applicable listing exchange and from major market data vendors. Money market mutual funds are typically priced once each business day and their prices will be available through the applicable fund's Web site or from major market data vendors.

Additional information regarding the Fund and the Shares, including investment strategies, risks, creation and redemption procedures, fees, Fund holdings disclosure policies, distributions and taxes will be included in the Registration Statement.

Initial and Continued Listing

The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and continued listing, the Fund must be in compliance with Rule 10A–3[41] under the Act. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the other assets constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities. Nasdaq will allow trading in the Shares from 4:00 a.m. until 8:00 p.m., Eastern Time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Nasdaq Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[42] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund (including Equity Securities; closed-end funds; ETFs; ETPs; ETNs; exchange-traded CVRs; options on stock indices; options on equity securities; and stock index futures contracts) with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG"),[43] and FINRA may obtain trading information regarding trading in the Shares and such exchange-traded securities and instruments held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine ("TRACE").

At least 90% of the Fund's net assets that are invested (in the aggregate) in exchange-traded derivatives (including options on stock indices; options on equity securities; and stock index futures contracts) and in exchange-traded CVRs will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. At least 90% of the Fund's net assets that are invested (in the aggregate) in ETNs and in exchange-traded equity securities (including Equity Securities; closed-end funds; ETFs; and ETPs) will be invested in securities that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

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[38] Pricing information for exchange-traded equity securities generally (including those traded on non-U.S. exchanges) is discussed in the next paragraph.

[39] Pricing information for exchange-traded options generally (including those traded on non-U.S. exchanges) is discussed in the next paragraph.

[40] Pricing information for exchange-traded stock index futures contracts, ETNs and CVRs generally (including those traded on non-U.S. exchanges) is discussed in the next paragraph.

[41] *See* 17 CFR 240.10A–3.

[42] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[43] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (4) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

Additionally, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's Web site.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act in general and Section 6(b)(5) of the Act in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5735. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.

Neither the Adviser nor the Sub-Adviser is a broker-dealer, but each is affiliated with at least one broker-dealer, and is required to implement a "fire wall" with respect to its respective broker-dealer affiliate(s) regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, paragraph (g) of Nasdaq Rule 5735 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the open-end fund's portfolio.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund (including Equity Securities; closed-end funds; ETFs; ETPs; ETNs; exchange-traded CVRs; options on stock indices; options on equity securities; and stock index futures contracts) with other markets and other entities that are members of ISG, and FINRA may obtain trading information regarding trading in the Shares and such exchange-traded securities and instruments held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE.

At least 90% of the Fund's net assets that are invested (in the aggregate) in exchange-traded derivatives (including options on stock indices; options on equity securities; and stock index futures contracts) and in exchange-traded CVRs will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. At least 90% of the Fund's net assets that are invested (in the aggregate) in ETNs and in exchange-traded equity securities (including Equity Securities; closed-end funds; ETFs; and ETPs) will be invested in securities that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

The investment objective of the Fund will be to seek long-term capital appreciation independent of market direction. Under normal market conditions, the Fund will seek to achieve its investment objective by investing at least 80% of its net assets in "Equity Securities," which may be represented by certain derivative instruments as well as ETFs that invest primarily in Equity Securities; the 80% Investments will take into account such derivative instruments and ETFs. The Fund will invest (in the aggregate) no more than 30% of the value of its net assets (calculated at the time of investment) in Principal Derivatives and Non-Principal Derivatives. The Fund's investments in derivative instruments will be made in accordance with the 1940 Act, will be consistent with the Fund's investment objective and policies, and will not be used to seek to achieve a multiple or inverse multiple of an index. Also, the Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser and/or the Sub-Adviser. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service, will be widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session. On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the CTA plans for the Shares. Quotation and last sale information for the following equity securities (to the extent traded on a U.S. exchange) will be available from the exchanges on which they are traded as well as in accordance with any applicable CTA plans: Equity Securities; ETFs; closed-end funds; and ETPs. Quotation and last sale information for U.S. exchange-traded options (including U.S. exchange-traded options on equity securities and U.S. exchange-traded options on stock indices) will be available via the Options Price Reporting Authority. Quotation and last sale information for U.S. exchange-traded stock index futures contracts, ETNs and CVRs will be available from the exchanges on which they are traded.

Pricing information for Non-Exchange-Traded Equity Securities (including without limitation Rule 144A securities), Short-Term Debt Instruments, repurchase agreements, OTC CVRs, non-U.S. currency swap agreements, total return swap agreements, forward foreign currency exchange contracts, bank time deposits, certificates of deposit and currency spot transactions will be available from major broker-dealer firms and/or major market data vendors and/or Pricing Services. Pricing information for exchange-traded equity securities (including Equity Securities; closed-end funds; ETFs; and ETPs), ETNs, exchange-traded CVRs and exchange-traded derivatives (including options on stock indices; options on equity securities; and stock index futures contracts) will be available from the applicable listing exchange and from major market data vendors. Money market mutual funds are typically priced once each business day and their prices will be available through the applicable fund's Web site or from major market data vendors.

The Fund's Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted under the conditions specified in Nasdaq Rules 4120 and 4121 or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The Fund's investments will be valued daily. Investments traded on an exchange (*i.e.*, a regulated market), will generally be valued at market value prices that represent last sale or official closing prices. Non-exchange traded investments will generally be valued using prices obtained from a Pricing Service. If, however, valuations for any of the Fund's investments cannot be readily obtained as provided in the preceding manner, or the Pricing Committee questions the accuracy or reliability of valuations that are so obtained, such investments will be valued at fair value, as determined by the Pricing Committee, in accordance with the Valuation Procedures and in accordance with provisions of the 1940 Act.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund (including Equity Securities; closed-end funds; ETFs; ETPs; ETNs; exchange-traded CVRs; options on stock indices; options on equity securities; and stock index futures contracts) with other markets and other entities that are members of ISG, and FINRA may obtain trading information regarding trading in the Shares and such exchange-traded securities and instruments held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE. Furthermore, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded fund that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (a) By order approve or disapprove such proposed rule change; or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2016–061 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NASDAQ–2016–061. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *http://www.sec.gov/rules/sro.shtml*. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2016–061 and should be submitted on or before June 15, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[44]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–12236 Filed 5–24–16; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 9581]

Notice of Public Meeting

The Department of State will conduct an open meeting at 9:00 a.m. on June 15, 2016, in Room 5L18–01 of the Douglas A. Munro Coast Guard Headquarters Building at St. Elizabeth's, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593. The primary purpose of the meeting is to prepare for the one hundred and sixteenth session of the International Maritime Organization's (IMO) Council to be held at the IMO Headquarters, United Kingdom, July 4–8, 2016.

The agenda items to be considered include:

—Adoption of the agenda
—Election of the Vice-Chairman
—Report of the Secretary-General on credentials
—Strategy, planning and reform
—Resource management (Human resource matters, accounts and audit, report on investments, report on arrears of contributions and of advances to the Working Capital Fund and implementation of Article 61 of the IMO Convention, budget considerations for 2016)
—IMO Member State Audit Scheme
—Consideration of the report to the Maritime Safety Committee
—Consideration of the report of the Facilitation Committee
—Consideration of the report of the Legal Committee
—Consideration of the report of the Marine Environmental Protection Committee
—World Maritime University (report of the Board of Governors and budget)
—Protection of vital shipping lanes
—Periodic review of administrative requirements in mandatory IMO instruments
—Principles to be considered in the review of existing requirements and the development of new requirements
—External relations (With the U.N. and the specialized agencies, Joint Inspection Unit, relations with intergovernmental organizations, relations with non-governmental organizations, World Maritime Day, International Maritime Prize, IMO Award for Exceptional Bravery at Sea, report on Day of the Seafarer 2016)
—Report on the status of the convention and membership of the Organization
—Report on the status of conventions and other multilateral instruments in respect of which the Organization performs functions
—Place, date and duration of the next two sessions of the Council (C 117 and C 118)
—Supplementary agenda items, if any

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, LT Anne Besser, by email at *Anne.E.Besser@uscg.mil*, by phone at (202) 372–1362, by fax at (202) 372–1925, or in writing at 2703 Martin Luther King Jr. Ave. SE. Stop 7509, Washington, DC 20593–7509 not later than June 8, 2016. Requests made after June 8, 2016 might not be able to be accommodated. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to Coast Guard Headquarters. It is recommended that attendees arrive to Coast Guard Headquarters no later than 30 minutes ahead of the scheduled meeting for the security screening process. Coast Guard Headquarters is accessible by taxi and public transportation. Parking in the vicinity of the building is extremely limited. You may participate in the meeting virtually by calling (202) 475–4000 or 1–855–475–2447, Participant code: 887 809 72.

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[44] 17 CFR 200.30–3(a)(12).

In the case where the Federal Government is closed or delayed, the public meeting may solely be conducted virtually. The meeting coordinator will confirm whether the virtual public meeting will be utilized by posting an announcement at: *www.uscg.mil/imo/*. Members of the public can find out whether the Federal Government is delayed or closed by visiting *www.opm.gov/status/*. Additional information regarding this and other IMO public meetings may be found at: *www.uscg.mil/imo*.

Dated: May 12, 2016.

Jonathan W. Burby,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2016–12374 Filed 5–24–16; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 9583]

60-Day Notice of Proposed Information Collection: Adoptive Family Relief Act Refund Application

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to July 25, 2016.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may comment on this notice by going to *www.Regulations.gov*. You can search for the document by entering "Docket Number: DOS–2016–0037" in the Search field. Then click the "Comment Now" button and complete the comment form.
- *Email: PRA_BurdenComments@state.gov*. You must include the DS form number, information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Andrea Lage, who may be reached at *PRA_BurdenComments@state.gov*.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Adoptive Family Relief Act Refund Application.
- *OMB Control Number:* 1405–0223.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* CA/VO/L/R.
- *Form Number:* DS–7781.
- *Respondents:* Immigrant Visa Petitioners.
- *Estimated Number of Respondents:* 600.
- *Estimated Number of Responses:* 600.
- *Average Time per Response:* 5 Minutes.
- *Total Estimated Burden Time:* 50 Hours.
- *Frequency:* On Occasion.
- *Obligation to respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Adoptive Family Relief Act (Public Law 114–70) amended Section 221(c) of the Immigration and Nationality Act (INA), 8 U.S.C. 1201(c), to allow for the waiver or refund of certain immigrant visa fees for a lawfully adopted child, or a child coming to the United States to be adopted by a United States citizen, subject to criteria prescribed by the Secretary of State. Over 350 American families have successfully adopted children from the Democratic Republic of the Congo. However, since September 25, 2013, they have not been able to bring their adoptive children home to the United States because the Democratic Republic of the Congo suspended the issuance of "exit permits" for these children. As the permit suspension drags on, however, American families are repeatedly paying visa renewal and related fees, while also continuing to be separated from their adopted children.

The waiver or refund provides support and relief to American families seeking to bring their adoptive children home to the United States from the Democratic Republic of the Congo and families in situations similar to the one stipulated above. This form collects information to determine the extra fees these families have paid and refund them in accordance with the Adoptive Family Relief Act.

Methodology

The collection will be hosted on the Department of State Web site to be printed, filled out, and eventually sent to the Consular Section where the adoption case was originally processed.

Dated: May 16, 2016.

Ed Ramotowski,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2016–12357 Filed 5–24–16; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 9582]

Renewal of Defense Trade Advisory Group Charter

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State announces the renewal of the Charter for the Defense Trade Advisory Group (DTAG) for another two years. The DTAG advises the Department on its support for and regulation of defense trade to help ensure the foreign policy and national security of the United States continue to be protected and advanced, while helping to reduce unnecessary impediments to legitimate exports in order to support the defense requirements of U.S. friends and allies. It is the only Department of State advisory committee that addresses defense trade related topics. The DTAG will remain in existence for two years after the filing date of the Charter unless terminated sooner. The DTAG is authorized by 22 U.S.C. 2651a and 2656 and the Federal Advisory Committee Act, 5 U.S.C. Appendix.

For more information, contact Lisa V. Aguirre, Alternate Designated Federal

Officer, Defense Trade Advisory Group, and Managing Director, Directorate of Defense Trade Controls, Department of State, Washington, DC 20520, telephone: (202) 663–2830.

Dated: April 22, 2016.

Lisa V. Aguirre,

Alternate Designated Federal Officer, Defense Trade Advisory Group, Managing Director, Directorate of Defense Trade Controls, U.S. Department of State.

[FR Doc. 2016–12366 Filed 5–24–16; 8:45 am]

BILLING CODE 4710–25–P

SURFACE TRANSPORTATION BOARD

Senior Executive Service Performance Review Board (PRB) and Executive Resources Board (ERB) Membership

AGENCY: Surface Transportation Board.

ACTION: Notice.

SUMMARY: Effective immediately, the membership of the PRB and ERB is as follows:

Performance Review Board

Leland L. Gardner, Chairman
Rachel D. Campbell, Member
Craig M. Keats, Member
Lucille Marvin, Alternate Member

Executive Resources Board

Rachel D. Campbell, Chairman
Lucille Marvin, Member
Joseph H. Dettmar, Member
William Huneke, Alternate Member

FOR FURTHER INFORMATION CONTACT: If you have any questions, please contact Teresa Schlee at *teresa.schlee@stb.dot.gov* or (202) 245–0340.

Dated: May 20, 2016.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2016–12297 Filed 5–24–16; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2010–0028]

CSX Transportation, Inc.'s Request for Positive Train Control Safety Plan Approval and System Certification

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that CSX Transportation, Inc. (CSX) submitted to FRA its Positive Train Control Safety Plan (PTCSP) Version 1.0, dated September 24, 2015. CSX asks FRA to approve its PTCSP and issue a PTC System Certification for CSX's Interoperable Electronic Train Management System (I–ETMS) under 49 CFR 236.1009 and 236.1015.

DATES: FRA will consider communications received by August 23, 2016 before taking final action on the PTCSP. FRA may consider comments received after that date if practicable.

ADDRESSES: All communications concerning this proceeding should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Hartong, PE, Senior Scientific Technical Advisor, at (202) 493–1332, *Mark.Hartong@dot.gov;* or Mr. David Blackmore, Railroad Safety Program Manager for Advanced Technology, at (312) 835–3903, *David.Blackmore@dot.gov.*

SUPPLEMENTARY INFORMATION: In its PTCSP, CSX asserts its I–ETMS is designed as a vital overlay PTC system as defined in 49 CFR 236.1015(e)(2). The PTCSP describes CSX's I–ETMS implementation and the associated I–ETMS safety processes, safety analyses, and test, validation, and verification processes used during development of I–ETMS. The PTCSP also contains CSX's operational and support requirements and procedures.

CSX's PTCSP and the accompanying request for approval and system certification are available for review online at *www.regulations.gov* (Docket No. FRA–2010–0028) and in person at DOT's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to comment on the PTCSP by submitting written comments or data. During its review of the PTCSP, FRA will consider any comments or data submitted. However, FRA may elect not to respond to any particular comment and, under 49 CFR 236.1009(d)(3), FRA maintains the authority to approve or disapprove the PTCSP at its sole discretion. FRA does not anticipate scheduling a public hearing regarding CSX's PTCSP because the circumstances do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, the party should notify FRA in writing before the end of the comment period and specify the basis for his or her request.

Privacy Act Notice

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 49 CFR 211.3, FRA solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which you can review at *www.dot.gov/privacy.* See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2016–12308 Filed 5–24–16; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016–0051]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel MSZ MT 749 G 809; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 24, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0051. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MSZ MT 749 G 809 is:

Intended Commercial Use of Vessel: "Sightseeing, charter fishing, and photography trips"
Geographic Region: "Massachusetts and New Hampshire"

The complete application is given in DOT docket MARAD–2016–0051 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.
Date: May 19, 2016.

T. Mitchell Hudson, Jr.,
Secretary, Maritime Administration.

[FR Doc. 2016–12340 Filed 5–24–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016 0054]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel NAUTI GIRL; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 24, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016 0054. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel NAUTI GIRL is:

Intended Commercial Use Of Vessel: "Occasional charter sportfishing"
Geographic Region: "South Carolina"

The complete application is given in DOT docket MARAD–2016–0054 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.
Dated: May 19, 2016.

T. Mitchell Hudson, Jr.,
Secretary, Maritime Administration.

[FR Doc. 2016–12341 Filed 5–24–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016–0052]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel PEGASUS; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build

requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 24, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0052. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel PEGASUS is:

Intended Commercial Use of Vessel: "Six Passengers"

Geographic Region: "Mississippi, Alabama, Florida"

The complete application is given in DOT docket MARAD–2016–0052 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: May 19, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–12342 Filed 5–24–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016–0053]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel INDIGO; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 24, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0053. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel INDIGO is:

Intended Commercial Use of Vessel: "Skippered charters and sailing instruction"

Geographic Region: "Washington State, Alaska(excluding waters in Southeastern Alaska and waters north of a line between Gore Point to Cape Suckling [including the North Gulf Coast and Prince William Sound]), Oregon, California"

The complete application is given in DOT docket MARAD–2016–0053 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Date: May 19, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–12339 Filed 5–24–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket ID Number: DOT–OST–2014–0031]

Agency Information Collection; Activity Under OMB Review; Passenger Origin-Destination Survey Report

AGENCY: Office of the Assistant Secretary for Research and Technology (OST–R), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of BTS collecting a sample of airline passenger itineraries with the dollar value of the passenger ticket. Certificated air carriers that operated scheduled passenger service with at least one aircraft having a seating capacity of over 60 seats or operates an international route report these data. Comments are requested concerning whether: (a) The collection is still needed by the Department of Transportation; (b) BTS accurately estimates the reporting burden; and (c) there are other ways to enhance the quality, utility and clarity of the information collected;

DATES: Written comments should be submitted by July 25, 2016.

FOR FURTHER INFORMATION CONTACT: James Bouse, Office of Airline Information, RTS–42, Room E34–441, OST–R, BTS, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, Telephone Number (202) 366–4876, Fax Number (202) 366–3383 or EMAIL *james.bouse@dot.gov.*

Comments: Comments should identify the associated OMB approval #2139–0001 and Docket ID Number DOT–OST–2014–0031. Persons wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB #2139–0001, Docket—DOT–OST–2014–0031. The postcard will be date/time stamped and returned.

ADDRESSES: You may submit comments identified by DOT Docket ID Number DOT–OST–2014–0031 by any of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Mail: Docket Services: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Fax: 202–366–3383.

Instructions: Identify docket number, DOT–OST–2014–0031, at the beginning of your comments, and send two copies. To receive confirmation that DOT received your comments, include a self-addressed stamped postcard. Internet users may access all comments received by DOT at *http://www.regulations.gov.* All comments are posted electronically without charge or edits, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets.

Electronic Access: you may access comments received for this notice at *http://www.regulations.gov,* by searching docket DOT–OST–2014–0031.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2139–0001.

Title: Passenger Origin-Destination Survey Report.

Form No.: None.

Type of Review: Extension of a currently approved collection.

Respondents: Large certificated air carriers that provide scheduled passenger service or operate an international route.

Number of Respondents: 48 certificated air carriers.

Number of Responses: 192.

Estimated Time per Response: 60 hours.

Total Annual Burden: 11,520 hours.

Needs and Uses: Survey data are used in monitoring the airline industry, negotiating international agreements, reviewing requests for the grant of anti-trust immunity for air carrier alliance agreements, selecting new international routes, selecting U.S. carriers to operate limited entry foreign routes, and modeling the spread of contagious diseases.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued in Washington, DC, on May 12, 2016.

William Chadwick, Jr.,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 2016–11646 Filed 5–24–16; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF VETERANS AFFAIRS

Commission on Care

AGENCY: Department of Veterans Affairs.

ACTION: Notice of meeting.

In accordance with the Federal Advisory Committee Act, 5 U.S.C., App. 2, the Commission on Care gives notice that it will meet on Tuesday, June 7, 2016, and Wednesday, June 8, 2016, at the J.W. Marriott, Jr. ASAE Conference Center, 1575 I St. NW., Washington, DC 20005. The meeting will convene at 9:00 a.m. and end by 6:00 p.m. (EDT) on June 7. The meeting will convene at 8:30 a.m. and end no later than 4:00 p.m. (EDT) on June 8. The meetings are open to the public.

The purpose of the Commission, as described in section 202 of the Veterans Access, Choice, and Accountability Act of 2014, is to examine the access of veterans to health care from the Department of Veterans Affairs and strategically examine how best to organize the Veterans Health Administration, locate health care resources, and deliver health care to veterans during the next 20 years.

Any members of the public wishing to attend the meeting may register their intentions by emailing the Designated Federal Officer, John Goodrich, at *john.goodrich@va.gov.* Remote attendees joining by telephone must email Mr. Goodrich by 12:00 p.m. (EDT) on Monday, June 6, 2016, to request dial-in information. The public may also submit written statements at any time for the Commission's review to *commissiononcare@va.gov*.

Dated: May 20, 2016.

John Goodrich,

Designated Federal Officer, Commission on Care.

[FR Doc. 2016–12362 Filed 5–24–16; 8:45 am]

BILLING CODE 8320–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

FEDERAL REGISTER

Vol. 81 Wednesday,
No. 101 May 25, 2016

Part II

The President

Proclamation 9451—National Safe Boating Week, 2016
Proclamation 9452—Armed Forces Day, 2016
Proclamation 9453—National Maritime Day, 2016

Federal Register
Vol. 81, No. 101
Wednesday, May 25, 2016

Presidential Documents

Title 3—

The President

Proclamation 9451 of May 20, 2016

National Safe Boating Week, 2016

By the President of the United States of America

A Proclamation

Each year, as summer approaches and warmer weather draws crowds to our Nation's beaches, lakes, and rivers, we set aside a week to recognize the importance of taking boating safety precautions before taking to the water. Throughout National Safe Boating Week, we recognize the risks associated with one of our country's favorite pastimes and encourage everyone to apply safe boating practices.

Safe boating practices should be observed prior to leaving land—no matter the length of the trip, the type of boat, or the size of the body of water. Boaters can reduce risks and enhance their safety by enrolling in a boating safety course. Vessels should be thoroughly examined, float plans should be prepared, and current laws and regulations should be known prior to embarking on a journey on the water. I encourage everyone to visit www.USCGBoating.org to find resources, learn more about responsible boating, or apply for a free vessel safety check. When boat operators and their passengers exercise caution when boating—including by wearing life jackets at all times and avoiding consumption of drugs and alcohol—accidents can be avoided, lives can be saved, and everyone can have a safe and enjoyable experience.

This week, we also recognize the men and women of the United States Coast Guard who dedicate themselves to protecting our Nation's waterways and assisting those at sea. As we continue to take advantage of our country's beautiful bodies of water, let us recommit to ensuring water safety and exercising appropriate boating procedures.

In recognition of the importance of safe boating practices, the Congress, by joint resolution approved June 4, 1958 (36 U.S.C. 131), as amended, has authorized and requested the President to proclaim annually the 7-day period prior to Memorial Day weekend as "National Safe Boating Week."

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim May 21 through May 27, 2016, as National Safe Boating Week. I encourage all Americans who participate in boating activities to observe this occasion by learning more about safe boating practices and taking advantage of boating education.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of May, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2016–12557
Filed 5–24–16; 11:15 am]
Billing code 3295–F6–P

Presidential Documents

Proclamation 9452 of May 20, 2016

Armed Forces Day, 2016

By the President of the United States of America

A Proclamation

The Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen who comprise our Armed Forces have defended our Nation and the values for which we stand for generations, answering the call to give up the comforts of civilian life, do whatever it takes to keep us safe, and go wherever they are needed. On Armed Forces Day, we offer our most profound gratitude to the patriots—at home and abroad—who have risked their lives so our people can live knowing the fullest measure of freedom and security.

With courage and honor, our men and women in uniform embody the everlasting responsibility we have to each other and to future generations by giving of themselves to ensure the preservation of our Republic and secure peace throughout the world. It is because of them and the values they represent that people across the globe look to the United States of America in moments of desperation and despair. For the relief they offer, the stability they provide, and the hope they inspire, we owe our service members an extraordinary debt—one we will never stop working to repay.

Our country's strength is measured by how we support and take care of our troops. Humbled by the sacrifices they make—and by the strength of their families—we stand in support of those who don our uniform and strive to ensure they have every opportunity to pursue the American dream they defend. They give their best for America, and they deserve the best from us. On this day, let us salute these brave Americans and all those who laid down their lives for our safety, and each day, let us remember that we live knowing liberty because of our Armed Forces.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, and Commander in Chief of the Armed Forces of the United States, continuing the precedent of my predecessors in office, do hereby proclaim the third Saturday of each May as Armed Forces Day.

I direct the Secretary of Defense on behalf of the Army, Navy, Air Force, and Marine Corps, and the Secretary of Homeland Security on behalf of the Coast Guard, to plan for appropriate observances each year, with the Secretary of Defense responsible for encouraging the participation and cooperation of civil authorities and private citizens.

I invite the Governors of the United States and its Territories, and appropriate officials of all units of government, to provide for the observance of Armed Forces Day within their jurisdiction each year in an appropriate manner designed to increase public understanding and appreciation of the Armed Forces of the United States. I also invite veterans, civic leaders, and organizations to join in the observance of Armed Forces Day.

Finally, I call upon all Americans to display the flag of the United States at their homes on Armed Forces Day, and I urge citizens to learn more about military service by attending and participating in the local observances of the day. I also encourage Americans to volunteer at organizations that provide support to our troops and their families.

Proclamation 9283 of May 15, 2015, is hereby superseded.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of May, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2016–12560
Filed 5–24–16; 11:15 am]
Billing code 3295–F6–P

Presidential Documents

Proclamation 9453 of May 20, 2016

National Maritime Day, 2016

By the President of the United States of America

A Proclamation

Since America's founding, proud mariners have selflessly dedicated themselves to protecting and advancing our interests—here at home and around the world. The patriots of the United States Merchant Marine have long served as our Nation's "fourth arm of defense," safeguarding the ideals that have guided our country for more than two centuries. They facilitate the transport and trade of American goods, and they put their lives on the line in times of war. On National Maritime Day, we honor our Merchant Mariners and celebrate their irreplaceable role in shaping our Nation's narrative.

Whether in still or raging waters, Merchant Mariners are fundamental to guaranteeing the delivery of essential goods to far-reaching corners of our globe. These seafarers have bravely faced threats at home and abroad—including combatants and pirates, disease outbreaks and natural disasters—and they consistently heed the call to serve their fellow Americans. In World War II, their ships carried troops and much-needed support to the battlefield, thousands making the ultimate sacrifice. They were among the first to see battle, and many were among the last to return home to our shores.

Carrying forward a legacy that spans generations, the United States Merchant Marine is vital to our Nation's economic security as well. Their transportation of vital cargo has impacts far beyond America's borders, generating trillions of dollars of economic activity each year. And when our entrepreneurs decide to embark on new ventures across oceans, mariners stand by and protect their pursuit of the American dream through tireless work to cultivate safe and open waterways. On this day, and every day, let us express our sincere gratitude to these courageous men and women for all they do for our Nation, and let us reaffirm our commitment to support them as they continue to uphold their proud tradition of service.

The Congress, by a joint resolution approved May 20, 1933, has designated May 22 of each year as "National Maritime Day," and has authorized and requested the President to issue annually a proclamation calling for its appropriate observance.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim May 22, 2016, as National Maritime Day. I call upon the people of the United States to mark this observance and to display the flag of the United States at their homes and in their communities. I also request that all ships sailing under the American flag dress ship on this day.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of May, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2016–12561
Filed 5–24–16; 11:15 am]
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H.R. 4238/P.L. 114–157

To amend the Department of Energy Organization Act and the Local Public Works Capital Development and Investment Act of 1976 to modernize terms relating to minorities. (May 20, 2016; 130 Stat. 393)

H.R. 4336/P.L. 114–158

To amend title 38, United States Code, to provide for the inurnment in Arlington National Cemetery of the cremated remains of certain persons whose service has been determined to be active service. (May 20, 2016; 130 Stat. 394)

H.R. 4923/P.L. 114–159

American Manufacturing Competitiveness Act of 2016 (May 20, 2016; 130 Stat. 396)

H.R. 4957/P.L. 114–160

To designate the Federal building located at 99 New York Avenue, N.E., in the District of Columbia as the "Ariel Rios Federal Building". (May 20, 2016; 130 Stat. 406)

S. 1492/P.L. 114–161

To direct the Administrator of General Services, on behalf of the Archivist of the United States, to convey certain Federal property located in the State of Alaska to the Municipality of Anchorage, Alaska. (May 20, 2016; 130 Stat. 407)

S. 1523/P.L. 114–162

To amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program, and for other purposes. (May 20, 2016; 130 Stat. 409)

S. 2143/P.L. 114–163

To provide for the authority for the successors and assigns of the Starr-Camargo Bridge Company to maintain and operate a toll bridge across the Rio Grande near Rio Grande City, Texas, and for other purposes. (May 20, 2016; 130 Stat. 411)

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